

COMMITTEE MEMBERS PRESENT

Robert A. Laurie, Commissioner, Presiding Member

Robert Pernell, Commissioner, Associate Member

Ellen Townsend-Smith, Commissioner Advisor

Scott Tomashefsky, Commissioner Advisor

Susan Gefter, Hearing Officer

STAFF PRESENT

Roberta Mendonca, Public Adviser

Jeff Ogata, Staff Counsel

Eileen Allen, Project Manager

Arthur Soinski

W. William Wood, Jr.

APPLICANT

Allan Thompson
Attorney at Law

Michael Carroll
Latham and Watkins

Sharon Segner, Project Manager
PG&E National Energy Group

INTERVENORS

Emilio E. Varanini
Matthew J. Goldman
Livingston & Mattesich
Cabrillo Power

William E. Claycomb, Save Our Bay, Inc.

Holly Duncan

ALSO PRESENT

Benjamin Montoya, SDG&E

ALSO PRESENT

Michael R. Thorp, Sempra Energy

Jane E. Luckhardt, Downey, Brand, Seymour & Rohwer

Jeff Marston, Marston & Marston, Inc.

Robert L. Ray, URS

Peter W. Hanschen, Morrison & Foerster LLP

Leonard W. Belter, Winston & Strawn

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1 P R O C E E D I N G S

2 PRESIDING MEMBER LAURIE: Good
3 afternoon. I'd like to initiate the first
4 Evidentiary Hearing on the Otay Mesa Generating
5 Plant.

6 Let me first introduce the dais. My
7 name is Robert Laurie, Commissioner at the
8 California Energy Commission. And I, along with
9 Commissioner Robert Pernell, the gentleman to my
10 right, constitute the Siting Committee that will
11 hear this case and make a recommendation to the
12 full Commission.

13 To my immediate right is Ms. Susan
14 Gefter. Ms. Gefter is the Hearing Officer who
15 will actually administer these proceedings, except
16 to the extent that Commissioner Pernell and I feel
17 an urgent need to express ourselves.

18 To Commissioner Pernell's right is
19 Commissioner Pernell's Advisor, Ms. Ellie
20 Townsend-Smith. And to my left is my Advisor, Mr.
21 Scott Tomashefsky.

22 This proceeding is being recorded. I'm
23 not referring to the media, I'm referring to our
24 own recorder. If there is, during the course of
25 this proceeding, any difficulty in that

1 recording, we will stop the proceeding until the
2 matter is corrected.

3 Also, this is a cellular telephone. If
4 you happen to own one, please turn it off. To the
5 extent that it may interrupt these proceedings, we
6 would ask that you not do that.

7 At this time -- that was not necessarily
8 directed to you, Commissioner Pernell.

9 (Laughter.)

10 COMMISSIONER PERNELL: I understand.
11 Thank you for the warning, by the way.

12 PRESIDING MEMBER LAURIE: At this time,
13 I would ask Commissioner Pernell if he has any
14 opening comments. Then I will ask Ms. Gefter to
15 review the process that we're going to be
16 following today.

17 Commissioner Pernell.

18 COMMISSIONER PERNELL: Thank you,
19 Commissioner Laurie. I have no comments at this
20 time.

21 PRESIDING MEMBER LAURIE: Thank you.

22 Ms. Gefter, if you could let the public
23 know, and the parties that are present know, the
24 process that we're going to be following for
25 today, at least.

1 HEARING OFFICER GEFTER: Before we begin
2 that, I'd like the parties to introduce themselves
3 for the record, starting with the Applicant.

4 MR. THOMPSON: Good afternoon. My name
5 is Allan Thompson. I'm one of counsel to PG&E
6 National Energy Group, representing Otay Mesa. To
7 my left is Ms. Sharon Segner. She is the Project
8 Manager for PG&E National Energy Group and Otay
9 Mesa. And to my right is Mr. Michael Carroll,
10 with the law firm of Latham and Watkins.

11 We have various individuals in the
12 audience from consultants and from the company,
13 some of which we anticipate being witnesses today
14 or tomorrow.

15 HEARING OFFICER GEFTER: Thank you.
16 Staff.

17 MR. OGATA: Good afternoon. My name is
18 Jeff Ogata, Staff Attorney for the California
19 Energy Commission.

20 MS. ALLEN: Eileen Allen, Staff Project
21 Manager for the Otay Mesa Project.

22 HEARING OFFICER GEFTER: And the
23 Intervenors. Cabrillo Power.

24 MR. VARANINI: Good afternoon. I'm Gene
25 Varanini. I'm with the law firm of Livingston and

1 Mattesich in Sacramento. And with me is one of my
2 colleagues, Matt Goldman. And we represent the
3 Cabrillo Energy Partners.

4 HEARING OFFICER GEFTER: And Duke
5 Energy, is there someone here from Duke?

6 Save Our Bay?

7 MR. CLAYCOMB: William E. Claycomb,
8 President and Chief Executive Officer of Save Our
9 Bay, Inc., an Intervenor.

10 HEARING OFFICER GEFTER: Holly Duncan.

11 MS. DUNCAN: Holly Duncan, concerned
12 citizen, member of the public, mother of
13 asthmatic, and native Southern Californian.

14 HEARING OFFICER GEFTER: Thank you.

15 SDG&E?

16 Is there anyone from CURE here today?

17 Are there any agencies here, local
18 agencies, state or federal agencies? Any
19 representatives?

20 And members of the public.

21 We do have the press here today.

22 Before we -- before I discuss what the
23 Evidentiary Hearing procedures will be today, I
24 wanted to discuss interlocutory appeal filed by
25 Intervenor Cabrillo Power.

1 We received an interlocutory appeal of
2 the Committee's order denying Cabrillo's request
3 to delay the Evidentiary Hearings. The appeal is
4 scheduled for argument at the Commission's
5 November 15th Business Meeting, which is the day
6 after tomorrow. Notice of the schedule was sent
7 on Friday, November 10th, by e-mail to all the
8 parties, except to Ms. Duncan and Mr. Claycomb,
9 who we had asked the Public Adviser to advise
10 about this hearing.

11 This hearing is scheduled pursuant to
12 Section 11125.3 of the Government Code, which is a
13 provision of the Bagley-Keane Open Meeting Act,
14 which allows the Commission to schedule an item
15 that wasn't previously on the agenda if it is --
16 if there is a need to take immediate action. And
17 the November 15th Business Meeting is the next
18 regularly scheduled Business Meeting of the
19 Commission.

20 We intend to proceed with the
21 Evidentiary Hearings today and tomorrow, and there
22 is also time scheduled on November 21st to
23 continue hearings on the gas supply issue that is
24 the issue of concern for Cabrillo Power.

25 We received Cabrillo's request for

1 issuance of the subpoena duces tecum, as well, for
2 Staff's work product and other materials used in
3 preparing their testimony on the gas supply issue.
4 We understand that the counsel, attorneys for both
5 parties, have been discussing this matter, and we
6 would like to hear about where you are in
7 resolving that -- that particular issue.

8 At this time we'll ask Mr. Varanini, for
9 Cabrillo Power, to -- if you would like to comment
10 on your interlocutory appeal, and also the
11 subpoena.

12 MR. VARANINI: I think in terms of the
13 interlocutory appeal, the matter is on the record
14 and I wouldn't want to waste any time here today
15 going over that argument again.

16 On the subpoena duces tecum, the Staff
17 has been extremely cooperative. They have
18 provided us with a plethora of documents this
19 morning, and we are very glad for that
20 cooperation. And I think with that level of
21 cooperation, we would withdraw the subpoena duces
22 tecum.

23 PRESIDING MEMBER LAURIE: Ms. Gefter,
24 some of our audience is having a difficult time
25 hearing us. I would ask all of us to speak up.

1 HEARING OFFICER GEFTER: All right.

2 Does any other party wish to discuss the --

3 PRESIDING MEMBER LAURIE: Well, ma'am,
4 you -- you can't hear?

5 (Comment from the audience.)

6 PRESIDING MEMBER LAURIE: Well, it is.
7 Susan, perhaps you can just speak a little --

8 HEARING OFFICER GEFTER: Can you hear me
9 now? Oh, I'm sorry. All right.

10 Does any other party wish to have any
11 comment on the interlocutory appeal?

12 All right, we'll pass on that.

13 The next topic is the Evidentiary
14 Hearing. And I'm going to talk about the
15 procedures that we'll follow over the course of
16 today and tomorrow, and the hearings that are
17 scheduled next week, as well.

18 The purpose of the Evidentiary Hearings
19 is to receive evidence, including sworn testimony,
20 in order to establish the factual record necessary
21 to reach a decision on the Application for
22 Certification. We -- the Evidentiary Hearings are
23 formal in nature. Witnesses will testify under
24 oath or affirmation, and are subject to cross
25 examination. The reporter will administer the

1 oath. And this is our reporter here, and if she
2 can't hear what we're saying she will let us know
3 right away.

4 Both Applicant and Staff have submitted
5 sworn witness declarations for topics that are not
6 in dispute. We have discussed these topics at the
7 Prehearing Conference, and all the parties agreed
8 to waive cross examination on the testimony
9 submitted by declaration on those topics.

10 The Evidentiary Hearing order shows
11 which topics have been submitted by declaration
12 and which ones will be presented by live
13 testimony. The -- I have copies of the hearing
14 order, so if people want to look at it, we can --
15 we can pass it around in awhile.

16 A party sponsoring a witness will
17 establish the witness' qualifications and ask the
18 witness to summarize his or her testimony.
19 Multiple witnesses may testify as a panel, if
20 necessary. The Committee may also question the
21 witnesses.

22 The Committee has also distributed a
23 current version of the proposed exhibit list.
24 This lists the various documents that the parties
25 have offered into evidence, and we will talk about

1 those exhibits, as well, during the course of this
2 proceeding. When you are offering exhibits into
3 evidence, please identify them and indicate the
4 relevance to the record.

5 Upon conclusion of each topic area,
6 members of the public may offer unsworn public
7 comment. Public comment is not testimony, but may
8 be used to explain evidence in the record.

9 At this point, does anyone have any
10 questions about the process?

11 PRESIDING MEMBER LAURIE: Ms. Gefter,
12 just let me note for our non-attorney Intervenors.
13 This is a formalized process. And we have an
14 expectation that all parties, including non-
15 attorney parties, follow the rules. Nevertheless,
16 we're not going to have you become intimidated by
17 this process. We're not going to have you be
18 unable to express yourselves because of the
19 process. So as we get into the hearing, and we're
20 going through a process that is confusing, simply
21 ask. And take a deep breath, and you will get
22 through this.

23 You are surrounded by attorneys. So if
24 you take blood pressure medication, maybe you will
25 want to do that prior to coming to the hearing.

1 (Laughter.)

2 PRESIDING MEMBER LAURIE: But we will
3 all get through this. And you -- you will be
4 allowed to fully express yourselves. Is that
5 understood?

6 MS. DUNCAN: Yes, thank you.

7 PRESIDING MEMBER LAURIE: Okay. So if
8 you have questions regarding the procedure, ask.
9 Okay.

10 MR. CLAYCOMB: I was just wondering, in
11 fully expressing myself how much time I'm allowed.

12 PRESIDING MEMBER LAURIE: That will be
13 determined by the nature of the case. This
14 Committee has the authority, and will limit
15 comment and -- and limit testimony to what it
16 deems to be relevant testimony. If relevant
17 testimony takes a given period of time, well, that
18 time will be permitted. Yet this Committee also
19 has the discretion to limit all testimony in order
20 to get through the process in an orderly fashion.

21 If you get into difficulties, we will
22 let you know. If you want to know in advance, we
23 -- we will expect in advance how long -- we'll
24 expect in advance to know how long everybody's
25 testimony is going to take. So if we have a whole

1 afternoon dedicated to evidentiary hearings, and
2 you think you're going to be taking up three or
3 four of those hours, and we're not anticipating
4 that, then we have to know that.

5 So we're free to discuss that in
6 advance.

7 MR. CLAYCOMB: I was thinking of 45
8 minutes, so I guess I'm all right.

9 HEARING OFFICER GEFTER: We'll see how
10 that goes.

11 The topics for today's hearing will be
12 Project Description, which will be the first
13 topic, and the parties will be presenting
14 witnesses on that topic.

15 The next topic is Need Conformance, and
16 we would just hear from counsel on that topic.
17 And then the topic that we anticipate we would
18 hear the most evidence on today is Alternatives,
19 and that would be the topic that Mr. Claycomb is
20 particularly interested in, as well as Ms. Duncan.
21 And we have your testimony that you submitted on
22 that topic, and we will hear from all the parties
23 on Alternatives later today.

24 The remaining topics have been submitted
25 by declaration, and we will take those later

1 today, after we conclude the testimony on
2 Alternatives. And we'll go through that this
3 afternoon.

4 At this point we'd like to begin with
5 Project Description, and ask the Applicant to
6 proceed.

7 MR. THOMPSON: Thank you very much.

8 Applicant would like to call Ms. Sharon
9 Segner, our first witness on Project Description.

10 HEARING OFFICER GEFTER: Would the
11 reporter please swear the witness.

12 (Thereupon Sharon Segner was, by
13 the reporter, sworn to tell the
14 truth, the whole truth, and
15 nothing but the truth.)

16 MS. SEGNER: Yes.

17 MR. THOMPSON: Ms. Gefter, we submitted
18 a package of prepared testimony within -- at the
19 same time along with our Prehearing Conference
20 statement. Did -- did you want me to ask that
21 that be marked as an exhibit for reference of all
22 of the material contained therein?

23 HEARING OFFICER GEFTER: Yes, and that's
24 not listed on the Exhibit List.

25 MR. THOMPSON: That -- that's right. It

1 was not. If I could ask that the material -- that
2 the Prehearing Conference statement and the
3 attachments thereto be marked the next exhibit in
4 order.

5 HEARING OFFICER GEFTER: All right.
6 Well, at this point that would be Exhibit 77,
7 because I had already added a couple more that I
8 -- that, in addition to the ones that I listed,
9 that were distributed. So Exhibit 77 would be
10 Applicant's Prehearing Conference Statement and
11 attached testimony.

12 (Thereupon, Exhibit 77 was
13 marked for identification.)

14 MR. THOMPSON: Thank you.

15 HEARING OFFICER GEFTER: And that was
16 dated what?

17 MR. THOMPSON: Well, I was actually
18 trying to find the date of the Prehearing
19 Conference Statement, and I -- I fear that I don't
20 have it.

21 Yes. My information is that it was
22 submitted on October 23.

23 HEARING OFFICER GEFTER: Okay.

24 MR. THOMPSON: We also submitted a
25 package of additional prepared testimony in

1 response to the hearing order on November 9.
2 Would it be appropriate to ask that that be
3 labeled the next exhibit in order?

4 HEARING OFFICER GEFTER: Yes. And, in
5 fact, that does appear on the Exhibit List that I
6 distributed as Exhibit 74 -- I'm sorry. Maybe we
7 didn't add that. Oh, I have -- okay. It will be
8 Exhibit 75. I already wrote it in on my list, but
9 I didn't include it on everybody else's.

10 MR. THOMPSON: Oh, okay.

11 HEARING OFFICER GEFTER: So let's call
12 Applicant's additional testimony filed November
13 8th, 2000, was -- will be Exhibit 75.

14 (Thereupon Exhibit 75 was
15 marked for identification.)

16 MR. THOMPSON: And the Prehearing
17 Conference statement testimony?

18 HEARING OFFICER GEFTER: Would be
19 Exhibit 77. I know that's reverse, but that's --

20 MR. THOMPSON: Do we have a 76?

21 HEARING OFFICER GEFTER: Yes, 76 will be
22 the prepared direct testimony of Robin Tenoso and
23 Benjamin Montoya, which is sponsored by SDG&E.
24 And that was filed November 8th.

25 MR. THOMPSON: Thank you. Sorry for

1 this.

2 One final procedural note before I
3 proceed with the testimony. A Mr. Williams is
4 listed as a witness in Project Description. He
5 is not available today, but can cover the Project
6 Description and Facility Design tomorrow morning.
7 Inasmuch as his portion of Project Description are
8 the engineering areas, anyway, it would seem like
9 that should be acceptable.

10 HEARING OFFICER GEFTER: That's fine.

11 MR. THOMPSON: Thank you very much.

12 TESTIMONY OF

13 SHARON SEGNER

14 called as a witness on behalf of Applicant, having
15 been first duly sworn, was examined and testified
16 as follows:

17 DIRECT EXAMINATION

18 BY MR. THOMPSON:

19 Q Ms. Segner, are you the same Sharon
20 Segner that submitted prepared testimony as part
21 of what has now been labeled Exhibit 75 to this
22 proceeding?

23 A Yes, I am.

24 Q And if I were to ask you those questions
25 contained in that material, would your responses

1 today under oath be the same?

2 A Yes.

3 Q Would you please give the Committee and
4 the public a general overview of your testimony in
5 this proceeding?

6 A Yes. There has not been a power plant
7 sited in San Diego County in nearly 30 years. We
8 are interested in siting this power plant in San
9 Diego because there is a critical need. The ISO
10 reports today that today, alone, San Diego is
11 several hundred megawatts short of power today.
12 Our view is that baseload natural gas plant is an
13 appropriate part of the solution in San Diego. It
14 is the cleanest, the most efficient natural gas
15 option. The facility uses dry cooling and uses
16 and discharges 36 times less water than many
17 existing plants.

18 The project has strong local support, as
19 reflected by the Board of Supervisors' five to
20 zero vote on April 12th, 2000, recommending
21 approval of the project to the California Energy
22 Commission.

23 The project also represents the
24 establishment of a national precedent on
25 environmental issues. The offset situation is

1 very serious in San Diego, but not unique. In San
2 Diego County there are two main sources of air
3 pollution, mobile pollution and transport
4 pollution. The project represents a year and a
5 half worth of work to be the first power plant in
6 the nation to use mobile offsets to site a
7 stationary source.

8 PG&E National Energy Group views this as
9 an important industry precedent, as well as
10 important for all San Diego generators. The
11 result of this pioneering effort was the
12 announcement on September 8th of a \$33 million
13 joint venture with waste management. The
14 partnership will convert 120 diesel trucks to LNG
15 vehicles. The transaction represents the largest
16 deployment of LNG vehicles anywhere in the country
17 to date.

18 On the transmission front, we have
19 reached resolution with San Diego Gas and Electric
20 and ISO. These issues were resolved in June 2000.

21 On the gas front, we want to proactively
22 work with relevant governmental authorities and
23 industry participants to reach and develop
24 reasonable solutions. Our gas testimony will
25 address these solutions, and the questions have

1 been raised over the last several days. Let me
2 simply say that we think there are a number of
3 alternatives currently under way to address the
4 issue.

5 Thank you.

6 MR. THOMPSON: Thank you. Ms. Segner is
7 tendered for cross examination.

8 HEARING OFFICER GEFTER: Staff, do you
9 have cross examination?

10 MR. OGATA: We have no questions. I
11 just have a point of order.

12 With respect to the exhibits that Ms.
13 Segner is being asked to sponsor in her testimony,
14 apparently those numbers don't seem to coincide
15 with the exhibit list that Ms. Gefter has passed
16 out now. So unfortunately, I'm wondering if we
17 can fix that.

18 HEARING OFFICER GEFTER: I have added
19 these exhibits. They're not written down on the
20 exhibit list that you have.

21 MR. THOMPSON: If I may, I think the
22 problem was that I had an exhibit list a month ago
23 that doesn't conform to the new one. If it would
24 be acceptable to Staff and the parties, what I'd
25 like to do while Ms. Segner is being cross

1 examined is marry up these numbers and then ask
2 her, as a final question, what the new numbers
3 should be.

4 MR. OGATA: Thank you.

5 HEARING OFFICER GEFTER: Mr. Varanini,
6 do you have cross examination of the witness?

7 MR. VARANINI: I have just a couple of
8 questions. And they may be more appropriate to
9 some of the -- some of the other witnesses, but I
10 just -- and they're just a couple of factual
11 points that I'd like to get clarified in my own
12 mind.

13 CROSS EXAMINATION

14 BY MR. VARANINI:

15 Q Ms. Segner, my name is Gene Varanini,
16 and I'm with the Livingston and Mattesich firm.
17 And I'm representing Cabrillo.

18 In your direct testimony you discussed
19 the choice by the project to -- to utilize dry
20 cooling. And could you give us some background on
21 dry cooling, and added cost of that environmental
22 improvement to the project?

23 A Sure, I'd be happy to. The decision to
24 go to dry cooling versus wet cooling on the
25 project was a critical decision, and an important

1 issue that we looked at carefully. Our view is
2 that dry cooling was a better solution for the
3 project for a number of reasons.

4 First of all, because of the mild
5 weather in San Diego, it -- dry cooling was a good
6 solution. We were also concerned about rising
7 water costs and discharge costs in the future,
8 associated with -- with wet cooling. And from a
9 water conservation standpoint, we thought that dry
10 cooling was the best alternative.

11 There is a significant difference in the
12 water consumption, and also, most importantly,
13 water discharge associated with dry cooling versus
14 wet cooling. Dry cooling uses significantly less
15 water and discharged significantly less water.

16 Q What's the cost of the dry cooling
17 component to your capital cost of the project? Do
18 you know?

19 A On the order of 15 to 20 million.

20 Q And what's the peak -- is there a peak
21 output penalty from dry cooling?

22 A In many areas of the country there is a
23 output hit associated with dry cooling versus wet
24 cooling. However, in San Diego, because of the
25 temperatures and the mild weather in San Diego it

1 is significantly less.

2 Q Do you have any estimate of that
3 decrease on peak?

4 A Al Williams will be -- can best answer
5 that question tomorrow.

6 Q And also in your testimony, you indicate
7 that you believe that -- that this unit will be
8 superior to the existing units, and it will tend
9 to replace or cause existing units to run at lower
10 capacity factors. Do you recall that?

11 A No, I -- I'm not sure which aspect of my
12 testimony you're referring to.

13 Q That was in your prepared testimony
14 today.

15 PRESIDING MEMBER LAURIE: Can you make
16 reference to -- I'm sorry.

17 THE WITNESS: Can you make reference to
18 --

19 MR. VARANINI: No, I can't.

20 PRESIDING MEMBER LAURIE: -- to a page
21 number, Mr. Varanini?

22 THE WITNESS: I'm sorry. I don't
23 remember saying -- mentioning or saying that.

24 BY MR. VARANINI:

25 Q Do you believe that to be true?

1 A Can you rephrase the question?

2 Q Do you believe that existing units --
3 that your unit will tend to replace or cause
4 existing units to run at lower capacity factors?

5 A I think the -- the real answer to that
6 question is it depends on what the market
7 structure and future market structure looks like
8 in California, and how the electric market and the
9 gas markets evolve over time, how the rules change
10 over time. And it is true that our plant has a
11 significantly lower heat rate than the other
12 generation in San Diego. There may be a
13 difference, if there is a difference, and it would
14 be doing -- most likely it would be doing baseload
15 demand periods rather than peak demand periods.

16 It would be -- it's very difficult to
17 answer that question simply because the market
18 structure is in flux.

19 Q I see. Have you done -- have you or the
20 company done any simulations to demonstrate the
21 efficiency of this proposal versus the existing
22 plants that are part of the San Diego regional
23 grid?

24 A Certainly as a part of our planning for
25 siting in San Diego we have done extensive market

1 analysis, much of which is proprietary to the
2 company in terms of market analysis. I'd be happy
3 to answer your question. I just need to
4 understand a little more -- maybe a little more
5 detail, in terms of --

6 Q Well, are you --

7 A -- where you're going with this.

8 Q -- familiar with production cost models?

9 A Yes, I am. In general, yes.

10 Q And have you used one of them to
11 simulate the utilization of your power plant in
12 San Diego?

13 A Certainly we have market models, and
14 they are similar to production cost models. But
15 it's not a typical production cost model, per se.
16 It's --

17 Q What -- what type of models did you use?

18 A There's a variety of different, you
19 know, internal markets and models that we have
20 designed internally, in terms of looking at the
21 economics of this project.

22 Q Have you used models like SerSim?

23 A I'm not familiar with that particular
24 model.

25 Q What -- what would you typify the models

1 as being? Is there a generic name for the type of
2 model that you utilized?

3 HEARING OFFICER GEFTER: Excuse me, Mr.
4 Varanini. What -- what is the relevance of this
5 line of questioning?

6 MR. VARANINI: Well, the relevance, Ms.
7 Gefter, is I'm trying to elucidate from the
8 witness the use and -- of models and the ability
9 to essentially both back up the statements that
10 the witness has made, both in the -- is sponsoring
11 both from the AFC and from her comments about
12 displacement of this machine, this machine
13 displacing existing machines.

14 And if -- if that's an -- if that's an
15 accurate characterization of her testimony, I'd
16 like to know the basis for that. And it seems to
17 me that most -- as the witness indicates, most
18 prudent developers utilize those models in order
19 to demonstrate both profitability and
20 functionability of the plant.

21 I think later you'll find that this is
22 tied together with the way the plants operate, and
23 with questions about regional -- regionalization
24 of a problem here in San Diego. So it's
25 foundational in that regard.

1 If -- if, in fact, they've used a model,
2 we'd like to see that model, and we'd be prepared
3 to review that model under confidential --
4 protecting its confidentiality and its market
5 secrecy provisions.

6 HEARING OFFICER GEFTER: I still don't
7 understand how that's relevant to what the
8 Commission is looking at. I don't know how this
9 information in our record is going to help us.

10 MR. VARANINI: Ma'am, it will tell you
11 when they turn on, when they turn off, what their
12 emissions are, and it will tell you all of that
13 relative to the other plants in the region.
14 They've stated one of the major benefits of the
15 plant is that it will be more efficient and
16 cleaner, and we simply want to -- if they've
17 simulated that, we'd like to see it so that we can
18 understand how they arrived at that opinion.

19 HEARING OFFICER GEFTER: Why don't you
20 ask the witness that specific question.

21 MR. VARANINI: Well, I think I have
22 about 14 different times, but I'd be happy to try
23 to ask.

24 BY MR. VARANINI:

25 Q Have you used -- what models have you

1 used to demonstrate that your proposal is more
2 efficient and will displace existing power plants
3 in the San Diego area, specifically in California,
4 generally?

5 MR. THOMPSON: I -- I think the witness
6 can answer that if she wants, but I believe that
7 she's already testified that the company has
8 proprietary financial models that they used to
9 look at market. I -- I think that that testimony
10 stands. I don't believe she testified that there
11 was a model that was used to underpin statements
12 made in the AFC.

13 MR. VARANINI: So the -- the testimony
14 is there was no production cost modeling done on
15 this proposal.

16 HEARING OFFICER GEFTER: I don't believe
17 that's what she testified.

18 MR. VARANINI: Well, that's what the
19 counsel just testified to.

20 MR. THOMPSON: No. No, I think what I
21 said was that what I heard the witness say is that
22 there are proprietary models that were used to
23 test the marketability of the power from this
24 project, financial models.

25 THE WITNESS: That's correct.

1 MR. THOMPSON: And I --

2 THE WITNESS: And, of course, we are --
3 also operate under CPUC and FERC regulations, in
4 terms of the ability for us to share such market
5 information with competitors.

6 MR. VARANINI: I understand that. I
7 just -- I just want to understand -- I'll get off
8 this immediately, if you can answer the question.

9 BY MR. VARANINI:

10 Q Have you utilized production cost models
11 as part of your financial analysis?

12 A We used models as part of our financial
13 analysis. Whether or not they are production cost
14 models, I would need to see a more definite
15 definition of what -- what a production cost model
16 is.

17 Q Is -- is your testimony you don't know
18 what a production cost model is?

19 MR. THOMPSON: I'm going to object to
20 these characterizations of her -- she just told
21 you what models she used. It may not have a label
22 that you like, or one that you're familiar with,
23 but she answered the question about the types of
24 models.

25 HEARING OFFICER GEFTER: I'd like to ask

1 Mr. Varanini to please move on, because we've
2 exhausted this particular topic.

3 MR. VARANINI: Well, I would be happy to
4 do that, but it seems to me that you'll see across
5 the other witnesses that several models have been
6 used, and I was trying to -- trying basically to
7 find out whether we could fit these together and
8 get some kind of general understanding.

9 BY MR. VARANINI:

10 Q In terms of the critical needs in the
11 San Diego metropolitan area, have you done any
12 studies to determine the nature and extent of that
13 need?

14 A We have done proprietary studies on the
15 San Diego market, and the needs of San Diego. Our
16 view is that for the purposes of this testimony,
17 that the California Independent System Operator
18 has done many studies on the need for power in San
19 Diego, and those studies would be the appropriate
20 point of reference.

21 Q For the purposes of this proceeding,
22 then, are you fundamentally relying on the ISO's
23 analysis of the situation in San Diego,
24 specifically, and California in general?

25 MR. THOMPSON: The -- the second item on

1 the agenda today is need for the project. That
2 has been eliminated by the legislature last
3 January. These questions appear to me to be going
4 toward the need issue, which is no longer going to
5 be considered by this Committee or the Commission.
6 It seems to me that these questions are irrelevant
7 and not probative to the issues before the
8 Committee.

9 MR. VARANINI: Well, if I can respond.
10 The witness brought up the question of need. I
11 didn't bring it up. And she said that she was
12 relying on ISO in terms of need, and I'm simply
13 asking if that's the -- if that's the extent of
14 what the Applicant is prepared to rely on on this
15 record.

16 HEARING OFFICER GEFTER: I don't know
17 why that would be relevant to what the Commission
18 needs to look at, in terms of our record.

19 MR. VARANINI: Ma'am, it's relevant
20 because need moves right into reliability, and if
21 they've studied it it's important to know. If
22 they're relying on ISO, then the questions that we
23 have for ISO will have that much more impact on
24 your record. So what I'm trying to do is preclude
25 a situation where we ask ISO questions, they give

1 one set of responses, and then the Applicant comes
2 back with a whole 'nother set of analysis.

3 They either -- if they have -- if they
4 have their own information they're relying on for
5 purposes of this record, we'd like to know. If
6 they're -- if they don't want to put that on the
7 record, and they're not relying on it on the
8 record, we'd like to know that.

9 HEARING OFFICER GEFTER: Well, I believe
10 the witness answered your question.

11 MR. VARANINI: Well, I --

12 HEARING OFFICER GEFTER: So let's move
13 on.

14 MR. VARANINI: Do you -- do you
15 understand the answer?

16 HEARING OFFICER GEFTER: I understood
17 what she said, yes.

18 MR. VARANINI: I didn't hear an answer.
19 There was an objection before she answered.

20 PRESIDING MEMBER LAURIE: Well, the -- I
21 interpreted the witness' statement as a very
22 general opening statement. Nevertheless, it was
23 given as testimony. You have a right to cross
24 examine on that, and that includes seeking the
25 basis of the information as stated. And so maybe

1 that's what you asked, but perhaps you can ask
2 that again, being what's the basis of her
3 statement, if you can summarize what her statement
4 was that you're questioning.

5 MR. VARANINI: Thank you, Commissioner
6 Laurie.

7 BY MR. VARANINI:

8 Q What I'm simply asking is whether in
9 your testimony, your general testimony about the
10 need for this plant, that you're relying for
11 public purposes on ISO analysis.

12 A My testimony was the ISO reports today,
13 I got today at one, San Diego is several hundred
14 megawatts short of power today. Certainly for our
15 market assessment, it's based on the ISO's study,
16 as well as our independent assessment of the
17 market, as well as the banking and investment
18 communities' perspective on the market.

19 Q I have one final question. When you
20 indicate that the studies are proprietary -- that
21 the models are proprietary, has the company
22 developed its own internal models, or does it
23 basically lease models from various institutions?

24 A The company relies on a number of
25 different models. Some are standard industry

1 models, and -- but ultimately it's our proprietary
2 models.

3 MR. VARANINI: Thank you. I have no
4 further questions.

5 HEARING OFFICER GEFTER: Ms. Duncan, do
6 you have questions of the witness?

7 PRESIDING MEMBER LAURIE: And this is
8 solely on her testimony.

9 MS. DUNCAN: I understand. I have to
10 concur with Cabrillo, that I thought I heard her
11 say that -- and again state, that ISO is the
12 source of their information of need. Which I
13 thought was item number 2. I thought I was going
14 to hear more about the plant itself, in terms of
15 your project description. But I also would have
16 to question the source of your determination of
17 need, and would request some sort of documentation
18 of the source of that information.

19 HEARING OFFICER GEFTER: From a legal
20 perspective --

21 MS. DUNCAN: Because it relates to my --

22 HEARING OFFICER GEFTER: Ms. Duncan --

23 MS. DUNCAN: -- my proposal on
24 alternatives.

25 HEARING OFFICER GEFTER: All right.

1 Right now what you need -- is that your question?

2 MS. DUNCAN: Yeah, my question is I also
3 would like to know the source of that information.
4 I know there are industry models. I know that
5 there are some protocols for some of those models.

6 HEARING OFFICER GEFTER: Okay.

7 MS. DUNCAN: So I'd like to know if any
8 of those were used.

9 THE WITNESS: One -- there's --

10 HEARING OFFICER GEFTER: Wait a second.
11 The need conformance requirement that -- that our
12 law used to require us to --

13 MS. DUNCAN: Are we going to Topic 2?

14 HEARING OFFICER GEFTER: Okay. It is no
15 longer a requirement, and the record that we will
16 look at will not consider whether or not the
17 project complies with need conformance, because
18 the statute has changed. And that was why we were
19 just going to have statement of counsel on that
20 issue.

21 But the --

22 MS. DUNCAN: I guess I'm questioning why
23 it's coming up --

24 HEARING OFFICER GEFTER: -- questions
25 they --

1 MS. DUNCAN: -- in her presentation,
2 then. I'm confused.

3 HEARING OFFICER GEFTER: Ask --

4 MS. DUNCAN: We keep coming back to
5 need, for some reason.

6 HEARING OFFICER GEFTER: You may ask her
7 a specific question on her testimony.

8 CROSS EXAMINATION

9 BY MS. DUNCAN:

10 Q Did you use any industry models that --
11 that Cabrillo Power is asking you about? Did you
12 do your own internal study, or how did you arrive
13 at this conclusion of need?

14 A In terms of what Cabrillo asked about,
15 I'm not familiar with the specific models that
16 Cabrillo referred to. And I'm not familiar if we
17 used those specific types of models.

18 In terms of how we relied on our need
19 issue, to get back to that again, is that, you
20 know, the ISO is certainly a source of good
21 information on the industry, and an independent
22 and credible source of information. In order for
23 us to make an investment decision in this plant,
24 and ultimately what drives our business decisions,
25 we look not only to the ISO, but we look to

1 broader market analysis that is proprietary to the
2 company.

3 So it is -- there is a wide range of
4 sources of information that we look at when we're
5 making an investment decision.

6 Q I have another question based on that
7 answer. How do you determine the independence of
8 the ISO?

9 MR. THOMPSON: I -- I'm going to object
10 to that. I suspect that may be a question for the
11 governor; certainly not me, or my witnesses.

12 HEARING OFFICER GEFTER: All right. And
13 it's not relevant to the record.

14 Do you have another question?

15 Okay. Mr. Claycomb, do you have a
16 question?

17 MR. CLAYCOMB: Yes, ma'am. Something
18 came up there. I remember that it was estimated
19 that if the Rainbow Valley transmission
20 interconnection were built, that we would not have
21 any electricity shortage problems until 2008, 7,
22 or 6, depending on who you're talking to.

23 HEARING OFFICER GEFTER: Do you have a
24 question of Ms. Segner?

25 MR. CLAYCOMB: Yes, I'm going to have

1 one here in just a minute.

2 CROSS EXAMINATION

3 BY MR. CLAYCOMB:

4 Q You -- you said that San Diego County
5 was several hundred megawatts short of local
6 capacity. Why, then, would you build a 520
7 megawatt plant?

8 A The ISO's view is that today, from a
9 reliability standpoint, San Diego is several
10 hundred megawatts short of capacity. The plant is
11 sized to meet existing and future need in San
12 Diego.

13 HEARING OFFICER GEFTER: Does the
14 Applicant have redirect of your witness?

15 MR. THOMPSON: No, we do not. Thank
16 you.

17 HEARING OFFICER GEFTER: Any questions?
18 Yes?

19 COMMISSIONER PERNELL: Yeah, I have one
20 question, and that is, you indicated the cost of
21 dry cooling in relationship to the overall
22 project. Do you have any idea of what the cost of
23 dry cooling versus wet cooling, just the
24 incremental cost?

25 THE WITNESS: When you look at dry

1 cooling, there's -- from a business and financial
2 standpoint, there's a couple of things you need to
3 look at. Dry cooling, you're looking at an
4 incremental capital cost. So when I said it was
5 15 to \$20 million, that's in general what the
6 industry range is for dry cooling.

7 When you're comparing dry cooling versus
8 wet cooling, you look at whether the -- what is
9 the incremental cost in the water and the water
10 discharge over the life of the power plant. And
11 also in terms of what the cost of the pipe, in
12 order to put that plant in, the -- to serve the
13 needs of the plant are.

14 So for San Diego, it really depends
15 where you're siting. And our view is -- our view
16 is that not only was it a good environmental
17 decision to go with dry cooling, it was also our
18 view it was a good -- it was a good economic
19 decision to go with dry cooling, as well.

20 COMMISSIONER PERNELL: Right. And I'm
21 not arguing whether you go with or without. I'm
22 just trying to get a cost, if you have it. If you
23 don't, then that's -- that's fine.

24 THE WITNESS: The cost differential
25 between the two, our view was that it was -- it

1 was more economic to go -- as I said, it was more
2 economic to go with dry than wet. The -- the
3 heart of the issue really gets to the issue of
4 what do you think the forward price curve for
5 water is going to look like in southern
6 California. Do you think it's going up, or do you
7 think it's going down, and by what degree. And
8 our indication on dry cooling was our perspective
9 on water prices.

10 COMMISSIONER PERNELL: Thank you.

11 HEARING OFFICER GEFTER: The Committee
12 doesn't have any questions of the witness at this
13 point.

14 REDIRECT EXAMINATION

15 BY MR. THOMPSON:

16 Q Ms. Segner, let me suggest three changes
17 to your testimony. Exhibit 23 is more properly
18 labeled correspondence from Greg Cox dated March
19 -- March 12th, 2000, and eliminate the exhibits
20 marked 61, acid rain, and 62, PM10 CEQA
21 mitigation. Is that acceptable to you?

22 AA Yes.

23 MR. THOMPSON: And with that, may I ask
24 that the following exhibits be admitted into
25 evidence.

1 HEARING OFFICER GEFTER: Let's go over
2 that again. You were changing Exhibit 23 --

3 MR. THOMPSON: The title of Exhibit 23
4 to conform to the more proper title in the exhibit
5 list. That's the correspondence from Greg Cox.

6 HEARING OFFICER GEFTER: Right. So
7 you're accepting the description as Exhibit 23 in
8 the list.

9 MR. THOMPSON: I am.

10 HEARING OFFICER GEFTER: All right. And
11 then there were two other exhibits that you were
12 deleting?

13 MR. THOMPSON: I -- 61 and 62. They're
14 actually covered by others, and I hate to admit
15 this, but also repetitive. So I have two goof-ups
16 on the same list.

17 HEARING OFFICER GEFTER: All right. So
18 61 and 62, as proposed in my list, are now
19 deleted.

20 MR. THOMPSON: No.

21 HEARING OFFICER GEFTER: No.

22 MR. THOMPSON: In the -- in the
23 testimony. Your list is still correct. Your list
24 is correct. It's just I'm eliminating them from
25 Ms. Segner's testimony.

1 HEARING OFFICER GEFTER: All right. And
2 then what -- what exhibits would you like to move
3 into evidence at this point?

4 MR. THOMPSON: All of the ones listed --
5 currently listed, except -- I'd like to move --
6 shall I list them?

7 HEARING OFFICER GEFTER: All -- 1
8 through 60--something?

9 MR. THOMPSON: No. No. All of the ones
10 listed in Ms. Segner's testimony, except Exhibit
11 1, and I would move the AFC Exhibit 1 after all of
12 the witnesses have testified that have a role in
13 that.

14 So it would be Exhibits 12, 14, 15, 19,
15 20, 22, 23, 24, 25, 26, 28, 29, 30, 45, 57, and
16 60.

17 HEARING OFFICER GEFTER: Does Staff have
18 any objection to receiving these exhibits into the
19 record?

20 MR. OGATA: Staff has no objection.

21 HEARING OFFICER GEFTER: Do any of the
22 intervenors have an objection to these exhibits
23 being received into the record?

24 MR. VARANINI: No objection.

25 MR. CLAYCOMB: No.

1 MS. DUNCAN: No.

2 HEARING OFFICER GEFTER: The exhibits
3 just enumerated by Applicant are not admitted into
4 the record as Applicant's exhibits.

5 Thank you.

6 (Thereupon Exhibits 12, 14, 15, 19,
7 20, 22, 23, 24, 25, 26, 28, 29, 30,
8 45, 57, and 60 were received into
9 evidence.)

10 MR. THOMPSON: Thank you.

11 HEARING OFFICER GEFTER: The witness may
12 be excused.

13 And the next topic is Need, and the only
14 reason it is on the list of topics is because the
15 application was filed before January 1, 2000.

16 MR. THOMPSON: Did -- did you want to
17 cover -- have Staff's witness on --

18 HEARING OFFICER GEFTER: Oh. Do you --
19 I'm sorry.

20 We will take Staff's witness on Project
21 Description.

22 MR. OGATA: Thank you, Ms. Gefter.

23 Staff's witness on the Project
24 Description is Eileen Allen. She needs to be
25 sworn, please.

1 (Thereupon Eileen Allen was, by
2 the reporter, sworn to tell the
3 truth, the whole truth, and
4 nothing but the truth.)

5 TESTIMONY OF

6 EILEEN ALLEN

7 called as a witness by Commission Staff, having
8 been first duly sworn, was examined and testified
9 as follows:

10 DIRECT EXAMINATION

11 BY MR. OGATA:

12 Q Ms. Allen, could you please state your
13 job title with the Energy Commission?

14 A My job title is Project Manager for the
15 California Energy Commission Staff, for the Otay
16 Mesa Generating Project.

17 Q And you have before you the project
18 description testimony that was written as part of
19 the FSA?

20 A Yes, I do.

21 Q Do you have any changes or corrections
22 you'd like to make to the testimony at this time?

23 A Staff received the item marked on Ms.
24 Gefter's list as Exhibit 67, filed on November
25 8th, 2000. These are the Applicant's comments on

1 the project description related portions of the
2 FSA. Staff agrees with these comments, and
3 accepts them as part of the revised FSA.

4 Q Do you have any -- do you have a summary
5 of the project description that you would like to
6 add to Ms. Segner's testimony?

7 A I have nothing to add.

8 MR. OGATA: Ms. Allen is available for
9 cross examination.

10 HEARING OFFICER GEFTER: Mr. Thompson,
11 do you have cross examination of the witness?

12 MR. THOMPSON: We do not. Thank you.

13 HEARING OFFICER GEFTER: Do any of the
14 intervenors have cross examination?

15 The witness referred to Exhibit 67,
16 which was submitted by the Applicant. Does the
17 Applicant wish to move that into the record?

18 MR. THOMPSON: I was actually going to
19 have Mr. Chilson sponsor that, if that is
20 acceptable.

21 HEARING OFFICER GEFTER: And when would
22 he do that?

23 MR. THOMPSON: I think he is part of the
24 Alternatives group, and I would put that in at
25 that time.

1 HEARING OFFICER GEFTER: And do any of
2 the Intervenors have any witnesses on Project
3 Description? There weren't any indications of
4 that at the Prehearing Conference.

5 All right. We're going to move on to
6 the Need Conformance issue. And again, as I
7 mentioned earlier, the only reason it is on the
8 list of topics is because the AFC was filed before
9 January 1st, 2000. As we have all become
10 familiar, the need to do any conformance analysis
11 in the Energy Commission's decisions was repealed,
12 is no longer required, and we don't look at Need
13 Conformance.

14 We wanted counsel to make a statement to
15 that effect.

16 PRESIDING MEMBER LAURIE: Although, on
17 the issue of override, one of the tests is
18 reliability. To the extent that reliability
19 relates to need in any fashion, then such evidence
20 becomes relevant.

21 MR. THOMPSON: I have a Statement of
22 Counsel that Mr. Ogata, Staff Counsel, has
23 reviewed. We concur in the verbiage. I would
24 leave it to the Committee whether you want this as
25 an exhibit or just have me read it, or just hand

1 it out. I only have ten copies, I fear, but it's
2 pretty much the same stuff that we've all seen
3 before.

4 HEARING OFFICER GEFTER: Could you
5 summarize it for us?

6 MR. THOMPSON: The -- this project was
7 filed and accepted late last year. It was
8 accepted in October of '99. On September of 1999,
9 the governor signed Senate Bill 110, which became
10 law on January -- it took effect on January 1st of
11 the year 2000.

12 Let me quote, as of that date, the
13 Commission will no longer be required to determine
14 if a proposed project conforms with an integrated
15 assessment of need. As a result, any Application
16 for Certification for which the Commission adopts
17 a Final Decision after January 1, 2000, is not
18 subject to a finding of, quote, need conformance,
19 end quote, period.

20 That is the gist of the statement. As I
21 said, I've shown this to Mr. Ogata. We would've
22 both come up with the same words, I believe.

23 HEARING OFFICER GEFTER: Mr. Ogata.

24 MR. OGATA: Yes, I concur.

25 MR. VARANINI: Ms. Gefter, what I'd like

1 to do, with the Committee's indulgence, is to file
2 a brief on this matter. We don't have any dispute
3 on -- in this case on exactly the characterization
4 of the statute, but it, as the Chairman points
5 out, I think there's something that's quite
6 important, and that is there's a large -- there's
7 a real difference between requiring an entity to
8 pass an integrated need assessment in order to be
9 approved, and the utilization of reliability and
10 need analysis to demonstrate a whole series of --
11 of prerogatives, or -- or elements in a case.

12 And I think it goes to issues such as
13 the override issue that was identified by the
14 Chairman. It goes to the CEQA override.
15 Potentially goes to condemnation issues, if there
16 are some alignments of condemnation. And it goes
17 to fundamental conflicts on -- on reliability.

18 I think, if -- if one is to proxy
19 reliability for need, that -- that the Energy
20 Commission still has substantial authority and
21 substantial capabilities to make necessary
22 judgments. But from our perspective, they -- the
23 Commission does not have the ability to do an
24 integrated need assessment and then line up all of
25 the applicants to see where need ends, where --

1 where the need's been fulfilled, and the next
2 plant fails.

3 PRESIDING MEMBER LAURIE: Well, Mr.
4 Varanini, where do you dispute the comment as
5 stated by Mr. Thompson?

6 MR. VARANINI: I -- I don't dispute the
7 literalness of it. But I think for policy
8 purposes I'd like to augment it. I -- I don't
9 have a -- I have a feeling that these cases are --
10 are going to begin to have real precedence one
11 case to the next, and I -- I think it's important
12 in every case to try to have a statement of law,
13 and then the application on the record.

14 It's possible in this case, although
15 remote, that some reliability issues may come up.
16 But I -- I think that for now, I agree that the --
17 obviously, the legislature changed the law, but I
18 think it -- I would like to augment the point for
19 the Committee's indulgence, if that's possible.

20 PRESIDING MEMBER LAURIE: Ms. Gefter, I
21 assume that the party is free to submit that legal
22 argument, whether it's done now or at time of
23 closing argument. In any case, other parties have
24 to have an opportunity to respond. It's a
25 question of timing. When, for purposes of your

1 effort, would you like to have that argument
2 submitted?

3 HEARING OFFICER GEFTER: We'll talk
4 about it among the Commissioners, and we'll let
5 you know at the end of the day.

6 MR. VARANINI: Thank you.

7 HEARING OFFICER GEFTER: All right. Mr.
8 Claycomb.

9 MR. CLAYCOMB: Ms. Gefter, I think now
10 would be the time I should ask my question. If
11 they built the Valley Rainbow transmission line,
12 the need for any new electrical generation could
13 be put off until, say, 2006, 7, or 8, depending on
14 who you talk to.

15 HEARING OFFICER GEFTER: Okay. Well,
16 you don't have a witness to ask the question of,
17 so we need to -- you could perhaps ask that
18 question of a witness. We're going to do
19 Alternatives in the next topic. Perhaps you can
20 ask that question of the witness on Alternatives.

21 MR. CLAYCOMB: All right. Either that,
22 or I'll get in during my testimony.

23 HEARING OFFICER GEFTER: All right.
24 Thank you.

25 MR. CLAYCOMB: Thank you.

1 HEARING OFFICER GEFTER: Alternatives is
2 the next topic. Is the applicant prepared to go
3 forward on that topic?

4 MR. THOMPSON: We are. Applicant would
5 like to recall Ms. Segner on the topic of
6 Alternatives. Ms. Segner has been previously
7 sworn.

8 TESTIMONY OF

9 SHARON SEGNER

10 called as a witness on behalf of Applicant, having
11 been previously duly sworn, was examined and
12 testified further as follows:

13 MR. THOMPSON: Ms. Segner has previously
14 been sworn. Her area of Alternatives, as
15 delineated in her testimony, is the No Project
16 alternative. And I would tender Ms. Segner for
17 cross examination on that section of the
18 Alternatives.

19 HEARING OFFICER GEFTER: Does Staff have
20 cross examination of Ms. Segner?

21 MR. OGATA: We have no questions.

22 HEARING OFFICER GEFTER: Do any of the
23 intervenors have cross examination of the witness?

24 MR. VARANINI: I have a question that
25 I'd like to ask on the section on the No Project

1 alternative, 311.9.

2 CROSS EXAMINATION

3 BY MR. VARANINI:

4 Q You're sponsoring testimony that says
5 OMGP will be environmentally superior to older
6 existing units which it will tend to replace or
7 cause these plants to run at lower capacity
8 factors. Is that right? Does that sound right?

9 A In terms of when the AFC was -- was
10 written, that was our -- that was our view when
11 the AFC was written a year ago. Correct.

12 Q And what's the basis of that statement?

13 A A -- the fact that our heat rate is
14 significantly lower than other older power plants.

15 MR. VARANINI: I have no further
16 questions.

17 HEARING OFFICER GEFTER: Mr. Claycomb.

18 MR. CLAYCOMB: Maybe I can ask my
19 question now.

20 CROSS EXAMINATION

21 BY MR. CLAYCOMB:

22 Q If we don't need a new power plant until
23 2006, 7, or 8, and based upon the fifth assessment
24 by the Intergovernmental Panel on -- second
25 assessment by the Intergovernmental Panel on

1 Climate Change, that by the year 2000, that energy
2 generating system would turn over twice, and give
3 an opportunity to go to alternative forms of
4 electricity generation such as fuel cells and
5 photovoltaic, why wasn't that discussed in the
6 Application for Certification?

7 HEARING OFFICER GEFTER: Ms. Segner, can
8 you respond to that question?

9 THE WITNESS: PG&E National Energy Group
10 has a wide variety of various projects under
11 development and operation across the country. And
12 we are -- assets are not limited to natural gas
13 assets. So we are certainly open to exploring
14 various different types of technologies, and
15 believe that the right solution in San Diego and
16 California is a wide mix of different technologies
17 in San Diego.

18 In terms of our view on San Diego, is
19 that there is a shortage of power today in San
20 Diego from a reliability standpoint. And there
21 needs to be a critical mass of megawatts to be
22 added to San Diego to address the reliability
23 issue. So our focus was what can add the most
24 number of megawatts the quickest to San Diego, in
25 the cleanest environmental fashion. And

1 unfortunately, because of that, photovoltaics
2 falls off the list, because of that.

3 We're certainly not opposed to other
4 technologies, certainly not opposed to renewable
5 energy or other types of technologies. It's
6 simply an issue of critical mass.

7 BY MR. CLAYCOMB:

8 Q I didn't understand why photovoltaics
9 fell off the list.

10 A Our view is that, you know, a 500
11 megawatt facility is the minimum needed in San
12 Diego.

13 Q Well, I heard earlier testimony that
14 only several hundred megawatts, not 500, are
15 needed. And photovoltaics on rooftops could put
16 quite a few hundred megawatts over a period of
17 several years, and maybe obviate the need for this
18 510 megawatt plant down the road.

19 A We're not opposed to additional
20 megawatts of photovoltaics coming to San Diego,
21 and would actively support those type projects.
22 Our view is that baseload generation is an
23 important building block to solving the
24 reliability issue in San Diego.

25 MR. CLAYCOMB: That's all for now.

1 HEARING OFFICER GEFTER: Ms. Duncan, do
2 you have questions of the witness?

3 MS. DUNCAN: Yes, I do.

4 CROSS EXAMINATION

5 BY MS. DUNCAN:

6 Q I'd like to address that last answer.
7 You have stated here that you're after the
8 quickest and fastest solution. My proposal on
9 Alternatives involves distributed generation. How
10 do you see your project coming on faster than a
11 microgrid of smaller turbines in combination with
12 Mr. Claycomb's photovoltaic proposal?

13 A I think fundamentally the ISO's view is
14 that San Diego is -- is critically short of -- of
15 power, and the more, the better.

16 In terms of the speed to getting
17 distributed generating paths versus a new power
18 plant, a natural gas power plant, I really can't
19 speak to that speed. Our company's position is
20 that we support alternative technologies. We
21 support renewable technology and a wide mix of
22 generation technologies.

23 Q In your presentation on the project, you
24 stated that no power plants had been built in
25 California for 30 years, particularly in this

1 area. Can you tell us why that happened?

2 A Sure, I'd be happy to. My testimony was
3 no major new power plants had been sited in San
4 Diego in nearly 30 years. There are a number of
5 challenges to siting power plants in San Diego,
6 and California. And the offset situation in San
7 Diego is very critical. And there are a variety
8 of issues in terms of it's a fairly complicated
9 local and state process to pull it all together.
10 In addition, there's a lot of market uncertainty,
11 as well, in California.

12 All these factors have led to plants not
13 being sited in California.

14 Q Another point of view says that during
15 the OPEC crisis this nation learned how to
16 conserve, and that for the first two decades we
17 didn't need anymore power plants because we were
18 doing such a good job of conserving. And then
19 when we hit the nineties, distributed generation
20 filled in the gap that was needed for power plant
21 siting. So this my basis for questioning the
22 ISO's statement that we need more power here.

23 Furthermore, at a recent conference I
24 attended, I learned that the San Diego Regional
25 Energy Office here said that this past summer,

1 because the prices went through the roof like in
2 the seventies, with OPEC, our area conserved 300
3 megawatts this summer. Three hundred megawatts.
4 Would your company disagree with that analysis?

5 A I have heard statements that because of
6 the focus on energy issues, that -- that power
7 usage, some power usage numbers did go down in
8 some parts of California. I honestly have not
9 seen the studies, and certainly could not testify
10 to what the number is.

11 Q Would that number, 300, coincide with
12 the numbers stated in your AFC that the ISO said
13 is our shortfall here?

14 A I'm sorry, I really -- I don't know what
15 the answer is -- I don't know the answer to that
16 question, from the standpoint of --

17 Q You would want to document that with the
18 San Diego Regional Energy Office that we conserved
19 300 megawatts this summer in San Diego, before you
20 answer that question? In your AFC you said -- you
21 identified a two to three hundred megawatt
22 shortfall here for the region. And I am saying I
23 just learned that we saved that 300, we conserved,
24 so we did in the area here what we did in the
25 1970s and 1980s, and it served the state very

1 well. That's one of the reasons we were not
2 building power plants in California. We were
3 still in a needs conformance requirement then, and
4 they weren't needed.

5 A The existence, even if the information
6 is true in terms of on the 300 megawatts, I -- I
7 cannot speak to the truthfulness of that
8 information. But it would not change our position
9 on the critical need for power in San Diego.

10 Q Can I ask a question regarding the
11 reliability statement. You said you want to
12 address the reliability. Reliability for high
13 tech, or reliability for residential, and which
14 one, in your opinion, has been identified by the
15 ISO?

16 A My understanding is that the ISO's
17 charter is to ensure electrical reliability for
18 all citizens of California. I believe that's the
19 basis of their planning and their -- their grid
20 analysis.

21 Q Are you at all aware of the need for
22 higher reliability than the grid can give to
23 industry today? Are -- are you aware of that
24 concern at all, and the role that distributed
25 generation plays in that?

1 A There's no question that a number, as
2 industry processes are getting more complicated,
3 especially in the high tech and bio-tech
4 industries, that higher power quality and power
5 reliability is very important. It means that
6 transmission planning is very important. It means
7 that generation planning is very important.
8 Clearly, power quality issues are emerging at the
9 forefront of -- of the high tech industry.

10 Q Can you tell me what level of
11 reliability the grid is capable of, in terms of
12 what the current needs are for industry today.
13 High tech industry, it's my understanding, needs
14 what's known as six nines, that's 99.9999 percent
15 reliability, and it's my understanding that no
16 matter how many plants we build like yours in
17 California, the grid will never be able to supply
18 that kind of reliability to industry. And that
19 that's where our primary need is right now.

20 Can -- can you --

21 PRESIDING MEMBER LAURIE: What was your
22 question?

23 BY MS. DUNCAN:

24 Q My question is, do they agree with that?
25 I'm -- I'm trying to find out what reliability

1 we're talking about here, what level of
2 reliability. My understanding currently is that
3 some of our shortfall in California is primarily a
4 result of our high tech industry, that the number
5 two requirement for power is electricity, lights,
6 in office buildings, in particular. And that
7 computer industry ranks number three or four.
8 It's not residential customers that are providing
9 the problem.

10 And that those industries require a -- a
11 minimum of 99.9999 percent reliability, and it's
12 my understanding no matter how many best power
13 plant in the world that we build, the grid cannot
14 provide that level of reliability to industry.
15 Therefore, one of the reasons we haven't been
16 building plants like this is because distributed
17 generation is filling that hole for us.

18 So my question is --

19 PRESIDING MEMBER LAURIE: Well, perhaps

20 --

21 MS. DUNCAN: -- what level of
22 reliability does your plant --

23 PRESIDING MEMBER LAURIE: -- Ms. Duncan,
24 you --

25 MS. DUNCAN: -- hope to address --

1 PRESIDING MEMBER LAURIE: -- can ask
2 whether the witness concurs with your statement as
3 to --

4 MS. DUNCAN: Okay.

5 PRESIDING MEMBER LAURIE: -- why --

6 MS. DUNCAN: I'll follow your lead.

7 PRESIDING MEMBER LAURIE: -- why we have
8 not been building power plants.

9 BY MS. DUNCAN:

10 Q Do you concur in that analysis?

11 MR. CARROLL: I'm going to interject. I
12 mean, Ms. Duncan has been speaking for several
13 minutes now, and I'm not -- yes.

14 Mike Carroll, counsel for PG&E National
15 Energy Group.

16 I'm going to interject, because Ms.
17 Duncan has been speaking for a couple of minutes
18 and I'm not sure that the witness can answer
19 whether or not she concurs with your analysis,
20 since there have been a number of threads running
21 through. So I'm going to ask you, you're going to
22 have to back up and break it up before I think the
23 witness can respond to your question, assuming
24 there's one in there. I'm not sure that there is.

25 But I'm going to object to her

1 responding to sort of a blanket statement, do
2 concur with that analysis, when there's been quite
3 a bit of analysis thrown out on the table.

4 MS. DUNCAN: Well, her statement was
5 that you want to add the most megawatts the
6 fastest for reliability. I guess perhaps my
7 question would be to ask you to define reliability
8 for us. What reliability are you talking about?

9 THE WITNESS: I believe that PG&E
10 generating -- PG&E National Energy Group's view on
11 the situation would be that there is a critical
12 need for generation, transmission, and problems --
13 and to address problems on the distribution front.
14 And I would say that there needs to be policy and
15 business solutions to -- to address problems on
16 all three levels, generation, transmission, and
17 distribution.

18 We would be supportive of policies and
19 programs that support the problems on all three
20 levels.

21 BY MS. DUNCAN:

22 Q Does that answer the reliability
23 question I asked? What -- I guess my question is
24 what level of reliability, in terms of the nines,
25 will your project give San Diego County?

1 A I don't know the answer to that
2 question.

3 MS. DUNCAN: Okay. Thank you. I have
4 no more questions.

5 HEARING OFFICER GEFTER: Do you have
6 redirect of your witness?

7 MR. THOMPSON: No, we do not.

8 HEARING OFFICER GEFTER: Do you have
9 another witness?

10 MR. THOMPSON: We do. Applicant would
11 like to call Mr. Bill Chilson.

12 Would you please state your name for the
13 record?

14 MR. CHILSON: William Chilson.

15 MR. THOMPSON: Sorry.

16 (Thereupon William Chilson was,
17 by the reporter, sworn to tell
18 the truth, the whole truth,
19 and nothing but the truth.)

20 TESTIMONY OF

21 WILLIAM CHILSON

22 called as a witness on behalf of Applicant, having
23 been first duly sworn, was examined and testified
24 as follows:

25 ///

1 DIRECT EXAMINATION

2 BY MR. THOMPSON:

3 Q Now that you're under oath, is your name
4 still Bill Chilson?

5 A Yes, it is.

6 (Laughter.)

7 BY MR. THOMPSON:

8 Q And was your prepared testimony
9 submitted as a portion of what has now been
10 identified as Exhibit 75, attached to the
11 Prehearing Conference Statement?

12 A Yes.

13 Q And if I were to ask you those questions
14 today, would your responses under oath be the
15 same?

16 A Yes.

17 Q And am I correct that the area of
18 Alternatives that you are offering testimony today
19 are the areas, the introductory material and
20 alternative site selections, and the alternate
21 natural gas pipeline routes; is that correct?

22 A That's correct.

23 MR. THOMPSON: Thank you. Mr. Chilson
24 is tendered for cross examination.

25 HEARING OFFICER GEFTER: All right.

1 Does Staff have any cross examination?

2 MR. OGATA: Staff has no questions.

3 HEARING OFFICER GEFTER: All right. Do
4 any of the Intervenors have questions of the
5 witness?

6 MR. CLAYCOMB: No questions.

7 MS. DUNCAN: No questions.

8 BY MR. THOMPSON:

9 Q Mr. Chilson, I have two changes to make
10 to your testimony, and then I would offer exhibits
11 into the record.

12 Exhibit 61 is identified as the
13 Applicant responses to comments of Intervenors.
14 Are you co-sponsoring that exhibit?

15 A That is correct.

16 Q And earlier today we discussed Exhibit
17 67, which was -- has been identified as our
18 comments to the project description related
19 portions of the FSA. And are you sponsoring that
20 material?

21 A That's correct.

22 MR. THOMPSON: Thank you very much.

23 Applicant would like to Exhibits 61 and
24 67 into evidence, please.

25 HEARING OFFICER GEFTER: Is there any

1 objection from any of the parties?

2 MR. OGATA: No objection.

3 MS. DUNCAN: No objection.

4 HEARING OFFICER GEFTER: All right.

5 Exhibits 61 and 67 are now received into the
6 record.

7 (Thereupon Exhibits 61 and 67
8 were received into evidence.)

9 HEARING OFFICER GEFTER: And if there
10 are no questions of this witness, he may be
11 excused.

12 MR. THOMPSON: I think that's it.

13 HEARING OFFICER GEFTER: You have
14 another witness; right?

15 MR. THOMPSON: I was -- Applicant would
16 like to call Mr. Charles Spinks.

17 (Thereupon Charles Spinks was, by
18 the reporter, sworn to tell the
19 truth, the whole truth, and
20 nothing but the truth.)

21 TESTIMONY OF

22 CHARLES SPINKS

23 called as a witness on behalf of Applicant, having
24 been first duly sworn, was examined and testified
25 as follows:

1 DIRECT EXAMINATION

2 BY MR. THOMPSON:

3 Q Mr. Spinks, are you the same Charles
4 Spinks that submitted prepared testimony that is
5 now marked as a part of Exhibit 75?

6 A Yes, I am.

7 Q And if I were to ask you the questions
8 contained in that exhibit would your answers
9 today, under oath, be the same?

10 A Yes, they would.

11 Q And your portion of the Alternatives
12 section is the alternative wastewater discharge;
13 is that correct?

14 A Yes, it is.

15 MR. THOMPSON: Thank you. Mr. Spinks is
16 tenders for cross examination.

17 HEARING OFFICER GEFTER: Does Applicant
18 have cross examination? I mean -- sorry, Staff.
19 I'm looking right at you.

20 MR. OGATA: Staff has no questions.

21 HEARING OFFICER GEFTER: Do any of the
22 intervenors have cross examination?

23 MR. VARANINI: No.

24 MS. DUNCAN: No.

25 MR. THOMPSON: I would like to also

1 offer Mr. Spinks in the area of -- he is also
2 testifying to an exhibit that's marked 37, which
3 is the chart of Brown Field clearances, and in
4 order not to bring him back on I would ask that if
5 there are any -- if there is any cross on the
6 Brown Field clearances, Exhibit Number 37, that
7 they could be asked now, if that is acceptable.

8 HEARING OFFICER GEFTER: Does any party
9 have cross examination with respect to Exhibit 37?

10 CROSS EXAMINATION

11 BY MS. DUNCAN:

12 Q I don't know if this is the proper time,
13 but I know at our Prehearing Conference
14 Commissioner Laurie raised the issue of the
15 document that needs to be secured from the FAA.
16 Is that part of your testimony?

17 A No, it is not.

18 Q The clearances for air traffic?

19 A The FAA document is a separate --

20 MR. THOMPSON: I think Mr. Ray is going
21 to be the witness on the FAA matter.

22 MS. DUNCAN: Okay. Then I have no
23 questions to him. I'll wait for Mr. Ray.

24 HEARING OFFICER GEFTER: There are
25 apparently no questions on Exhibit 37.

1 MR. THOMPSON: Thank you. Applicant
2 would like to move Exhibit 37 into evidence,
3 please.

4 HEARING OFFICER GEFTER: Any objections?

5 There are no objections. Exhibit 37 is
6 received into the record.

7 (Thereupon Exhibit 37 was received
8 into evidence.)

9 MR. THOMPSON: The other witness
10 identified in the Alternatives area is Mr. Jim
11 Filippi, and he is not here today. I think I was
12 under the mistaken idea that he would be here. He
13 will be here tomorrow. He's actually the -- our
14 Transmission System Engineering witness, and those
15 are the areas in the Alternatives that he would
16 testify to, not only our Transmission System, but
17 the Alternatives that he considered.

18 If it would be acceptable to the
19 Committee, I would like to offer Mr. Filippi
20 tomorrow in both of those areas.

21 HEARING OFFICER GEFTER: Okay. That
22 would be fine. People will be prepared to cross
23 examine Mr. Filippi tomorrow. He will be
24 testifying on Transmission System Engineering and
25 Alternatives. And what area of Alternatives?

1 MR. THOMPSON: In the Transmission
2 System Alternatives.

3 HEARING OFFICER GEFTER: That makes
4 sense. All right.

5 MR. THOMPSON: Thank you. That
6 completes Applicant's direct material in the area
7 of Alternatives.

8 HEARING OFFICER GEFTER: All right.
9 Does Staff have a witness on Alternatives?

10 MR. OGATA: Thank you, Ms. Gefter.
11 Staff has two witnesses on Alternatives. The
12 first witness is Eileen Allen, who has been
13 previously sworn.

14 TESTIMONY OF

15 EILEEN ALLEN

16 called as a witness on behalf of Commission Staff,
17 having been previously duly sworn, was examined
18 and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. OGATA:

21 Q Ms. Allen, before you do you have the
22 testimony of Eileen Allen, in the Final Staff
23 Assessment, which has been marked as Exhibit 64,
24 in the area of Alternatives?

25 A Yes, I do.

1 Q Was that testimony written by you or
2 under your supervision?

3 A I wrote the testimony.

4 Q Do you have any changes or corrections
5 you would like to make at this time?

6 A No.

7 Q Would you please summarize your
8 testimony for us?

9 A In preparing this testimony I described
10 the project objectives. I identified potential
11 significant environmental impacts of the project,
12 evaluated the environmental impacts along the
13 lines of a No Project Alternatives analysis. I
14 evaluated Alternative Technologies. I looked at
15 which, if any, of the potential significant
16 impacts could potentially be avoided by use of an
17 alternative site. I found that there were none
18 that could be avoided by use of an alternative
19 site.

20 Developed screening criteria for
21 feasibility of alternative sites. I looked at a
22 range of alternative sites that met most of the
23 basic objectives of the project. I looked at
24 whether these sites would avoid or substantially
25 lessen one or more of the potential significant

1 effects of the project. I found that these sites
2 did not. They did satisfy the feasibility
3 screening criteria, however. I found that each
4 alternative site was feasible, but not superior to
5 the proposed site.

6 I evaluated the environmental impacts of
7 each alternative site, and did a impact comparison
8 with the proposed project. I determined that the
9 environmental impacts of the alternative sites
10 were the same as the proposed project.

11 MR. OGATA: Thank you. Ms. Allen is
12 available for cross examination.

13 PRESIDING MEMBER LAURIE: Question. To
14 what extent, if at all, did you analyze a
15 different sized project, as opposed to different
16 technology projects? That is, are we in a
17 position to answer the question is a 250 megawatt
18 plant environmentally superior to a 500 megawatt
19 plant?

20 THE WITNESS: I looked briefly at that
21 question. I didn't look at 250, but on a
22 theoretical basis I looked -- I discussed how even
23 a hundred megawatt facility with its linear
24 facilities would create similar biological
25 resource impacts. Left it at that.

1 HEARING OFFICER GEFTER: Does that
2 conclude your testimony?

3 THE WITNESS: Yes, it does.

4 HEARING OFFICER GEFTER: Does any party
5 have cross examination of the witness?

6 MR. VARANINI: We do not. Thank you.

7 MR. GOLDMAN: We do.

8 HEARING OFFICER GEFTER: Cabrillo.

9 CROSS EXAMINATION

10 BY MR. GOLDMAN:

11 Q Good afternoon, Ms. Allen. My name is
12 Matt Goldman, representing Intervenor Cabrillo
13 Power One LLC.

14 I presume that you have what has been
15 marked as Exhibit 64, the FSA, in front of you.
16 If you would turn to page 355, which is the
17 beginning of the Alternatives section, which the
18 FSA indicates is authored by you.

19 I'd like to ask you several questions
20 about your analysis in the context of
21 environmental impacts and reliability impacts in
22 the context of Alternatives to the proposed
23 project.

24 To make the record as clear as possible,
25 I would just like to refer you to the first couple

1 of sentences of your Alternatives Section, where
2 -- under the heading, Purpose of the Alternatives
3 Analysis. In particular, I'd like you to take a
4 look at what I presume you wrote, quote, the
5 purpose of Staff's Alternatives analysis is to
6 provide the Energy Commission with an analysis of
7 a reasonable range of alternatives that could
8 avoid or substantially lessen any potentially
9 significant adverse impacts of the proposed
10 project. And there are references to the
11 California Code of Regulations dealing with CEQA,
12 and California Codes of Regulations in connection
13 with the Warren-Alquist Act.

14 Do you see that there?

15 A Yes, I do.

16 Q And am I correct in concluding that that
17 is an accurate statement, from your perspective,
18 of the purpose of the Alternatives analysis?

19 A Yes.

20 Q Okay. The next sentence indicates that
21 this analysis identifies the potential significant
22 environmental impacts of the proposed project. Is
23 it your understanding that this type of
24 environmental analysis is required under
25 California law pursuant to CEQA?

1 A Yes, it is.

2 Q Is it also your understanding that a
3 reliability analysis is required in the context of
4 considering alternatives under the Warren-Alquist
5 Act?

6 HEARING OFFICER GEFTER: I want to
7 interject here. I believe you're asking the
8 witness to give you a legal opinion.

9 MR. GOLDMAN: I certainly don't mean to
10 conclude that. I'm asking in the context of her
11 capacity as Project Manager, in fulfilling her
12 duties as a public official, if she has an
13 understanding that part of her duties as Project
14 Manager is to comply with the Warren-Alquist Act.

15 THE WITNESS: I understand that I must
16 represent the Staff in its responsibility of
17 complying with the Warren-Alquist Act.

18 BY MR. GOLDMAN:

19 Q Okay. Thank you.

20 Going back to the CEQA analysis, there
21 is a quotation in the third paragraph, under legal
22 guidance for the Alternatives analysis, that
23 indicates, the last sentence of that section, if
24 the range of alternatives is defined too narrowly,
25 the analysis must be deemed inadequate. Do you

1 see that there?

2 HEARING OFFICER GEFTER: It says may be
3 deemed inadequate. May be inadequate.

4 MR. GOLDMAN: Yes.

5 THE WITNESS: Yes.

6 BY MR. GOLDMAN:

7 Q And without playing lawyer -- as has
8 been pointed out, there are plenty of those in the
9 room -- is that your understanding of part of your
10 duties in your capacity as Project Manager;
11 namely, to consider the range of alternatives and
12 to ensure that the range of alternatives
13 considered by the Staff is not too narrow?

14 A Yes.

15 Q Based on your experience as Project
16 Manager for the Energy Commission, would the
17 imposition of certain conditions to a proposed
18 request or Application for Certification be a form
19 of a project alternative?

20 A That's possible. I'd have to evaluate
21 the specifics of that possibility.

22 Q Is it your testimony --

23 HEARING OFFICER GEFTER: Mr. Goldman,
24 just a second. What is the purpose of these
25 questions, and where are you going?

1 MR. GOLDMAN: Well, the purpose is to
2 obtain for the record the range of alternatives
3 considered by the Staff, because that's the
4 current topic for evidentiary hearing. So the --

5 HEARING OFFICER GEFTER: Her testimony
6 indicates the range of alternatives that they
7 looked at.

8 MR. GOLDMAN: Well, that's what I'm
9 laying a foundation so that I can make sure for
10 the record that, indeed, that type of analysis was
11 performed.

12 BY MR. GOLDMAN:

13 Q If you would go to the next couple of
14 pages, in the section which is entitled the No
15 Project Alternative, if I understood your
16 testimony correctly, you indicated that that was
17 considered, but that in your professional opinion
18 the No Project Alternative was not considered
19 superior to the application submitted before you;
20 correct?

21 A That's correct.

22 Q Okay. If you would --

23 HEARING OFFICER GEFTER: Again, Mr.
24 Goldman. We can read the document, so it would be
25 best if you could just get to your question.

1 MR. GOLDMAN: I -- I appreciate that,
2 Ms. Gefter. I just want to make the record clear
3 so that there's no subsequent attack on any lack
4 of foundation. But I -- I will move as
5 expeditiously as I can.

6 BY MR. GOLDMAN:

7 Q Along those lines, going to the last
8 paragraph of page 357, there is a reference to a
9 report by Cal-ISO and SDG&E dated September 9 of
10 2000, indicating that the San Diego area will need
11 more power to meet load growth and maintain
12 reliability. Is that still consistent with your
13 understanding as we sit here today?

14 A Yes, it is.

15 Q In connection with the consideration of
16 how to meet load growth and maintain reliability,
17 did the Staff consider the project's potential
18 impact on electric system reliability?

19 A As the author of the Alternatives
20 testimony, I did not consider that in the
21 Alternatives context. Mr. Baker considered it in
22 the Reliability section.

23 Q Are you aware of anyone else, other than
24 Mr. Baker, who, on the Staff of the Energy
25 Commission, would've considered the proposed

1 project's impact on electrical system reliability?

2 A Mr. Vartanian.

3 Q Anyone else?

4 A Mr. Vidaver prepared some background
5 material regarding the existing generation base.

6 Q Is Mr. Vartanian a current employee of
7 the Energy Commission?

8 A No, he is not.

9 Q Do you know by whom he is currently
10 employed, as we sit here today?

11 A He's told us that he has a
12 confidentiality agreement with his employer, that
13 I believe precludes him from stating the name of
14 that employer. If something has changed related
15 to that, I think that he will tell us when he
16 testifies tomorrow.

17 Q And it's your understanding that he will
18 testify here tomorrow; is that correct?

19 A Yes, I am supposed to pick him up at the
20 airport about 8:00 o'clock.

21 Q Okay. Well, I will be completing my
22 testimony well before than, or my questioning, so
23 we shouldn't have to worry too much about that.

24 If in the context of the Alternatives, I
25 could ask you just to help speed things along, if

1 you could go to page 3, which is the Executive
2 Summary, which I believe the FSA indicates you
3 also authored. There's a section in the middle of
4 page 3 entitled Summary of Natural Gas Supply and
5 Pipeline Capacity Conclusions.

6 Is it accurate to say that the Staff
7 analyzed reliability and related technical areas
8 in the context of its alternatives analysis?

9 A Mr. Baker and I did not link the
10 Alternatives testimony and the Reliability and
11 Efficiency testimony directly. He was aware of
12 the testimony that I had written for the
13 Alternatives area, and I reviewed the Reliability
14 and Efficiency testimony that he wrote, with the
15 augmentations by Mr. Vartanian and Mr. Wood for
16 Gas Supply.

17 Q Why was there no connection, if I
18 understand you correctly, between the technical
19 analysis regarding gas transmission, pipeline
20 capacity for gas supply, and potential
21 alternatives to the proposed project?

22 A I think Mr. Baker will be -- will be
23 addressing that in the overall context of what he
24 sees as gas supply options, to address the
25 pipeline capacity problem in the next three to six

1 years.

2 Q Do I understand you correctly, then,
3 that there was no consideration of an alternative
4 to the project as proposed in light of what is
5 identified here, in the summary of natural gas
6 supply and pipeline capacity conclusions, as the
7 possibility of an inadequate pipeline capacity to
8 supply gas to the Otay Mesa Generating Plant?

9 A I did not address that specific topic in
10 the Alternatives testimony that I authored. And I
11 think the executive summary testimony that I've
12 got here is clear.

13 Q In connection with these -- the
14 statements to which you just referred to as clear,
15 does that include the statement in the second
16 paragraph of this summary? Quote, the above gas
17 pipeline capacity situation has existed for
18 several years and the proposed project could make
19 it worse if there are no additions to the existing
20 pipeline system.

21 A Are you on page 3?

22 Q Yes.

23 A And which paragraph are you looking at?

24 Q The second paragraph in the summary of
25 natural gas supply and pipeline capacity

1 conclusions.

2 MR. OGATA: Excuse me, counsel. What is
3 your question. Are you asking her if that's
4 clear?

5 MR. GOLDMAN: If -- if that was
6 considered -- no, I believe it is clear. If that
7 was considered in the context of making a decision
8 not to incorporate that analysis directly into
9 analysis of alternatives.

10 THE WITNESS: I believe so.

11 BY MR. GOLDMAN:

12 Q Okay. So -- so that there's no
13 misunderstanding, given your understanding, or the
14 Staff's collective understanding that the gas
15 pipeline capacity situation was inadequate and
16 that the proposed project could make it worse,
17 notwithstanding that fact, there was no
18 consideration of that fact in the Alternatives
19 analysis of the Staff; correct?

20 A Correct.

21 Q The -- you also indicated in that same
22 paragraph that the Staff has concluded that the
23 existing gas pipeline capacity problem will be
24 resolved with or without the proposed project. Do
25 you see that there?

1 A Yes, I do.

2 Q Could you summarize your understanding
3 of the Staff's basis for concluding that the
4 problem will be resolved with or without the
5 proposed project?

6 MR. OGATA: Excuse me. I'm going to
7 object to Ms. Allen answering this question. I
8 believe that as the executive summary is the
9 author of this, she merely takes information in
10 the technical areas, and I don't believe she is
11 qualified to respond to that question. So I'm
12 going to object to her responding to that.

13 BY MR. GOLDMAN:

14 qQ I'll withdraw the question and ask Ms.
15 Allen, in the alternative, if I'm correct that Mr.
16 Baker would be the one who would have the
17 technical expertise to answer that question.

18 A Yes, that would be Mr. Baker.

19 Q Anyone else on the Staff, other than Mr.
20 Baker?

21 A Mr. Wood.

22 Q Anyone else?

23 A I think it would be restricted to Mr.
24 Wood and Mr. Baker.

25 Q Okay. There's a reference on the same

1 page that states that -- it's actually the first
2 paragraph of the summary -- if the Otay Mesa
3 Generating Project were to be approved and built
4 immediately, during the peak demand periods the
5 existing gas pipeline system would be insufficient
6 for supplying a reliable efficient quantity of
7 natural gas.

8 What is your understanding of the
9 consequences of the existing gas pipeline system
10 being insufficient, in light of the lack of an
11 alternative analysis?

12 HEARING OFFICER GEFTER: Mr. Goldman,
13 again, the counsel for Staff has indicated that
14 Ms. Allen is merely reporting the information that
15 the technical staff has presented, and Mr. Baker
16 would be the more likely expert on that topic.

17 MR. GOLDMAN: Oh, I -- I understand that
18 he would have the technical expertise. I was
19 actually asking for the generic summary in Ms.
20 Allen's capacity as Project Manager. I'm really
21 for a response in the context of the executive
22 summary. I understand that --

23 PRESIDING MEMBER LAURIE: I would
24 question whether that's within the scope of her
25 Alternatives testimony.

1 BY MR. GOLDMAN:

2 Q Well, is it?

3 A Well, I --

4 PRESIDING MEMBER LAURIE: Well, let me
5 not -- let me question whether -- whether or not
6 it's within the scope by indicating that it is not
7 within the scope of her Alternatives testimony.

8 (Laughter.)

9 BY MR. GOLDMAN:

10 Q Ms. Allen, do you agree with
11 Commissioner Laurie?

12 PRESIDING MEMBER LAURIE: No, she
13 doesn't have to agree.

14 (Laughter.)

15 MR. GOLDMAN: I was just curious.

16 PRESIDING MEMBER LAURIE: No. Please --
17 please move on, Mr. Goldman.

18 MR. GOLDMAN: All right.

19 BY MR. GOLDMAN:

20 Q In connection with the Reliability
21 analysis, did you rely on the technical personnel
22 of the Staff to inform you on their technical
23 conclusions so that you would be in a position to
24 accurately summarize their technical findings for
25 purposes of reporting it in the FSA?

1 MR. OGATA: Excuse me. I -- I'm going
2 to object to -- this is still the executive
3 summary, and this is supposed to be Alternatives.
4 I mean, if -- if you're asking her to -- some
5 questions related to Alternatives, I think that's
6 relevant. But I don't see the relevance of asking
7 her about the executive summary.

8 MR. GOLDMAN: Well, my understanding is
9 that the -- the summary is basically the, if you
10 will, layperson's narrative of what the project is
11 all about, and from that we can divine whether or
12 not the alternative analysis was adequate.

13 I mean, the witness has already
14 testified that she had to rely -- if I understand
15 her correctly, that she had to rely on the
16 technical expertise of Staff to pursue her
17 Alternatives analysis. And so I'm just asking
18 some background questions so that I can ascertain
19 to what extent she did rely on them.

20 HEARING OFFICER GEFTER: I don't believe
21 that was Ms. Allen's testimony, that she relied on
22 other technical staff to prepare her Alternatives
23 testimony.

24 THE WITNESS: That's correct. I did
25 rely on other Staff when I prepared this section

1 of the executive summary. But, particularly, I
2 did not rely on Mr. Baker and Mr. Wood for
3 preparation of the Alternatives analysis.

4 BY MR. GOLDMAN:

5 Q On whom, or what sources of information
6 did you rely in connection with determining
7 whether or not, in connection with an Alternatives
8 analysis, there might be an adequate fuel supply
9 for the project?

10 A I thought that that was best addressed
11 by Mr. Baker, augmented by Mr. Wood, in the
12 Reliability and Efficiency sections of the Staff's
13 analysis.

14 Q It is your understanding as Project
15 Manager, is it not, that the Staff, whether it be
16 the technical personnel or yourself, would need an
17 indication of certainty of fuel supply before the
18 Staff could produce its Final Staff Assessment;
19 correct?

20 A Yes.

21 Q Along those lines, in connection with
22 Reliability, it is your conclusion as Project
23 Manager that the gas supply is relevant to these
24 proceedings, even though the Public Utilities
25 Commission does have jurisdiction over the gas

1 supply system?

2 HEARING OFFICER GEFTER: I'm going to
3 interject here, Mr. Goldman. Again, you're asking
4 the witness for a legal conclusion, and that is --
5 you need to --

6 MR. GOLDMAN: Well, if I might --

7 HEARING OFFICER GEFTER: -- ask her a
8 question with respect to her expertise. But she
9 is not qualified to answer a legal question.

10 MR. GOLDMAN: Well, if I could back up
11 and lay a foundation for the question.

12 BY MR. GOLDMAN:

13 Q Ms. Allen, did you attend the May 22,
14 2000, Status Conference in this proceeding?

15 A Yes, I did.

16 Q Do you recall, in connection with a
17 comment from the Presiding Member, Mr. Laurie,
18 that there was a discussion about a meeting among
19 SDG&E, Southern California Gas, and other
20 interested parties regarding gas supply, that you
21 thanked Commissioner Laurie for that comment and
22 indicated that while you had been told that the
23 Public Utilities Commission was considering the
24 matter, that you disagreed with the notion that
25 that would make it irrelevant to Energy Commission

1 proceedings, and say, quote, we think it is
2 relevant to this project.

3 Does that refresh your recollection?

4 A Could you rephrase the question?

5 Q Yes. Do you recall saying, at the May
6 22 Status Conference, that you disagreed with
7 SDG&E's representative informally telling you that
8 they thought that the gas supply issue was a
9 matter before the Public Utilities Commission and
10 therefore not relevant to the Energy Commission
11 proceeding, but that while clearly Staff
12 disagrees, we think it is relevant to this
13 project.

14 A I recall saying that.

15 Q Okay. And do you still hold that
16 opinion today, as we sit here?

17 A Yes.

18 Q As Project Manager, is it your
19 understanding that the conclusions of the Staff as
20 a whole, including the technical personnel, are
21 based on testimony that has been educed into the
22 record in this proceeding?

23 A Yes.

24 Q Is -- is it --

25 HEARING OFFICER GEFTER: I'm sorry.

1 That -- would you please state that again?

2 MR. GOLDMAN: I just -- I'm basically
3 going to ask a couple of questions just to confirm
4 on the record the range of information that the
5 Staff has considered in drafting its FSA, because,
6 as you know, Cabrillo has --

7 HEARING OFFICER GEFTER: The --

8 MR. GOLDMAN: -- taken the position that
9 it has not been able to educe the evidentiary
10 record that it feels it's entitled to, in terms of
11 addressing its areas of concern.

12 HEARING OFFICER GEFTER: Excuse me, but
13 the evidentiary record has -- does not exist.
14 Today is the first day of the evidentiary record
15 --

16 MR. GOLDMAN: Well --

17 HEARING OFFICER GEFTER: -- so I take --
18 the previous question that you just asked Ms.
19 Allen, when you asked her whether she based her
20 assessment on the testimony or the evidence on the
21 record, the only evidence that is before us is
22 what is appearing right now, today.

23 MR. GOLDMAN: I apologize for the
24 confusion I may have caused. I meant to refer to
25 the FSA.

1 THE WITNESS: Sorry. The question is?

2 HEARING OFFICER GEFTER: Repeat your
3 question.

4 MR. GOLDMAN: Thank you. And I'll try
5 to clarify it.

6 BY MR. GOLDMAN:

7 Q What is your understanding as to the
8 scope of information that the Staff collected as
9 reflected by the FSA?

10 MR. OGATA: Excuse me. And what is the
11 connection to Alternatives?

12 MR. GOLDMAN: Well, the Alternatives is
13 part and parcel of the FSA, and as I understand it
14 the Alternatives can only be considered in context
15 of the actual application, the parameters of the
16 application, so that one could then determine
17 whether or not an alternative would be better in
18 the sense that there would be a mitigated impact
19 on the environment, or an enhanced possibility for
20 electrical system reliability.

21 You can't consider an alternative in a
22 vacuum. You need to know what the application
23 itself calls for, so you can --

24 MR. OGATA: Well, I think your question
25 would be better --

1 MR. GOLDMAN: -- second guess --

2 MR. OGATA: -- targeted towards that
3 latter, instead of asking her such a broad
4 question about whether or not -- what information
5 she got, because I don't see the relevance of that
6 to her Alternatives.

7 If you're asking if the Staff members
8 gave her input into possible issues for which
9 alternative analysis might be required, I think
10 she can answer that question.

11 MR. GOLDMAN: Well, the answer, I
12 presume, is that one is yes, as to that. Is it
13 not?

14 THE WITNESS: Staff did give me input.

15 BY MR. GOLDMAN:

16 Q Yes. Do you have an understanding as to
17 the range of information that the Staff obtained
18 as they were briefing you on the results of their
19 technical analysis?

20 A That range of information is reflected
21 to a great extent in the reference list for the
22 Reliability and Efficiency sections, and my
23 Alternatives section. As a result of your
24 subpoena last Thursday, we provided some material
25 that isn't necessarily listed in the reference

1 list as shown in the FSA. Furthermore, I haven't
2 had a chance to docket all that material that we
3 provided to you. We are willing and able to do
4 that when we return to Sacramento.

5 Q We appreciate that. Thank you very
6 much.

7 HEARING OFFICER GEFTER: And, Mr.
8 Goldman, could you please inform us, as the
9 Committee, what is the relevance of all these
10 questions to the record, so that when we review
11 the transcript of your questions we can tie it to
12 something.

13 MR. GOLDMAN: Certainly. I would like
14 to establish that the -- as Ms. Allen just very
15 helpfully pointed out, that the reference list at
16 the end of each technical chapter is, as I
17 understand it, the technical basis underpinning
18 the Staff's technical analysis.

19 Then Ms. Allen indicated that in
20 addition to the materials included in the
21 reference list, there were additional documents
22 that were produced to us pursuant to our subpoena,
23 and if I understand correctly, those two
24 categories of informational sources, one being the
25 reference list contained in the FSA, the other

1 being the additional documents that were produced
2 to us pursuant to the subpoena, are the sum and
3 substance of the information under which the Staff
4 has produced its FSA.

5 HEARING OFFICER GEFTER: How does that
6 help us?

7 MR. GOLDMAN: It -- it helps us, and
8 especially us as Intervenors, establish the record
9 that we have been effectively precluded from
10 introducing into the record for the Staff's
11 consideration evidence that we think are very,
12 very important, so that the Commission ultimately
13 can appropriately consider the issues that we've
14 raised in our appeal.

15 HEARING OFFICER GEFTER: You have the
16 opportunity to present your evidence in the course
17 of these hearings.

18 MR. GOLDMAN: Well, unfortunately, we've
19 been denied that opportunity up to this point.
20 And that's the basis --

21 HEARING OFFICER GEFTER: Okay. Well,
22 we're not going to argue about it.

23 MR. GOLDMAN: -- for our appeal.

24 HEARING OFFICER GEFTER: But let's move
25 on, if you have any other further questions.

1 MR. GOLDMAN: I think that is it. Thank
2 you very much.

3 HEARING OFFICER GEFTER: Mr. Ogata, do
4 you have any redirect of your witness?

5 MR. OGATA: Yes, I do have a couple of
6 questions.

7 REDIRECT EXAMINATION

8 BY MR. OGATA:

9 Q Ms. Allen, in the response to Mr.
10 Goldman, you stated -- or he asked you whether or
11 not -- whether or not that -- whether or not the
12 issue of gas supply of certainty was required
13 before producing a Final Staff Assessment. And
14 your answer -- maybe he asked you that in the
15 opposite, and you answered -- and your response
16 was yes.

17 Isn't it true that a Final Staff
18 Assessment in any technical area can be produced
19 without all the elements necessarily being
20 completed, and in that situation the Staff
21 recommendation would be denial of certification?

22 MR. GOLDMAN: Objection. Leading.

23 HEARING OFFICER GEFTER: It's his
24 witness.

25 MR. GOLDMAN: Well, but that's the whole

1 point. You can't -- you can't lead your own
2 witness.

3 MR. OGATA: Well, let me --

4 HEARING OFFICER GEFTER: Go right ahead
5 and ask the question.

6 PRESIDING MEMBER LAURIE: Well, we --
7 Mr. Goldman, understand that the Committee has
8 great discretion regarding the civil rules by
9 which we're going to -- which we're going to be
10 utilizing in this proceeding. And I would not
11 expect or anticipate further objections regarding
12 leading the witness unless it becomes abusive.

13 MR. OGATA: Thank you, Commissioner
14 Laurie.

15 BY MR. OGATA:

16 Q Ms. Allen, did you understand my
17 question?

18 A Yes, and I -- my response to your
19 question is yes, that clarification that you have
20 suggested to me is helpful.

21 Q Mr. Goldman has also summarized part of
22 your testimony with respect to the information
23 that was produced by Staff pursuant to their
24 subpoena as being the sum and substance of the
25 information that Staff relies upon in producing

1 the FSA. Do you agree with that characterization?

2 A Sum and substance implies that it would
3 be the entirety. I -- I can't agree that that
4 will be the entire set of information.

5 Q Do you have any knowledge of some
6 examples of some other possible information that
7 Staff would not able to produce pursuant to their
8 subpoena?

9 A No. Setting aside new information that
10 we may hear from other parties, no, there's
11 nothing else that I'm aware of.

12 MR. OGATA: Thank you. I have no
13 further questions.

14 HEARING OFFICER GEFTER: The witness may
15 be excused.

16 MR. CARROLL: I have -- excuse me. I
17 have --

18 HEARING OFFICER GEFTER: Do you have a
19 cross --

20 MR. CARROLL: -- would like to ask just
21 a few questions of Ms. Allen, if I may.

22 HEARING OFFICER GEFTER: All right.

23 CROSS EXAMINATION

24 BY MR. CARROLL:

25 Q Ms. Allen, just a couple of questions.

1 You did, as you testified earlier, look at the No
2 Project alternative; isn't that true? And you did
3 also, on page 359 of the Staff Assessment, discuss
4 a range of renewable resources that you looked at.
5 Is that also the case?

6 A That's correct.

7 Q And would the consumption of natural gas
8 in the case of those alternatives, either the
9 renewable resources or the no project alternative,
10 vary significantly from the consumption of natural
11 gas associated with the proposed project?

12 A Yes, it would.

13 Q So is it fair to say that you did
14 evaluate a range of alternatives with a range of
15 potential impacts on the issue of gas reliability
16 and the consumption of natural gas?

17 A That is correct. I stated on page 359
18 that four principal electricity generation
19 technologies were alternatives, and they do not
20 burn fossil fuels.

21 MR. CARROLL: Thank you. That's all.

22 HEARING OFFICER GEFTER: That's all?

23 All right. I assume there is no more recross
24 examination, and --

25 MR. GOLDMAN: I have a single question,

1 if I might.

2 RE CROSS EXAMINATION

3 BY MR. GOLDMAN:

4 Q Among the alternatives that were
5 considered, was a dual fuel alternative
6 considered?

7 A Not in the context of my Alternatives
8 analysis.

9 Q And why is that?

10 A I did not have the expertise to evaluate
11 that.

12 Q Did you ask anyone on the technical
13 staff to evaluate that?

14 A No, I didn't.

15 Q And why not?

16 A Our collective professional judgment was
17 that at the time we didn't think it would be
18 needed.

19 Q In reaching your collective professional
20 judgment, did you collectively or singularly
21 consider the issue of limited gas supply that is
22 reflected in the FSA?

23 A Yes, we did. Related to a limited
24 pipeline capacity.

25 Q And is the conclusion that the Staff

1 reached entirely reflected in the FSA?

2 A Yes, it is.

3 MR. GOLDMAN: No further questions.

4 MR. OGATA: Nothing further.

5 HEARING OFFICER GEFTER: Okay. The
6 witness may be excused.

7 Staff has --

8 MR. CLAYCOMB: Ms. Gefter.

9 HEARING OFFICER GEFTER: Yes.

10 MR. CLAYCOMB: Save Our Bay has a
11 question.

12 HEARING OFFICER GEFTER: You have a
13 question --

14 MR. CLAYCOMB: Yes.

15 HEARING OFFICER GEFTER: -- of the
16 witness?

17 MR. CLAYCOMB: Yes.

18 HEARING OFFICER GEFTER: All right. Go
19 ahead.

20 CROSS EXAMINATION

21 BY MR. CLAYCOMB:

22 Q I think earlier you stated that you
23 didn't think a 250 megawatt power plant would be
24 any -- I don't believe either more or less
25 environmentally damaging than a 500 megawatt.

1 Well, then I think this is the time to get this
2 in.

3 On Saturday, President Clinton called
4 for new federal regulations limiting power plants'
5 emissions of carbon dioxide. Save Our Bay, Inc.,
6 beat him by eight days, with its Declaration Set
7 7, which I will read. Then I'll have --

8 HEARING OFFICER GEFTER: Wait, wait.

9 MR. CLAYCOMB: -- the question.

10 HEARING OFFICER GEFTER: Mr. Claycomb,
11 are you asking the witness a question?

12 MR. CLAYCOMB: Yes.

13 HEARING OFFICER GEFTER: Okay. Because
14 we're -- okay. Could you get to the question.

15 MR. CLAYCOMB: Because there's a big
16 difference here between a 250 megawatt power plant
17 and a 500 megawatt power plant.

18 HEARING OFFICER GEFTER: Okay. So what
19 is your question for the witness?

20 BY MR. CLAYCOMB:

21 Q All right. The question is, the power
22 -- that power plant will put out 1,787,040 tons
23 carbon dioxide a year. A 250 megawatt would put
24 out only half that much. Isn't -- shouldn't the
25 production of carbon dioxide be considered?

1 A My statement in the analysis went to the
2 criteria pollutants.

3 Q Could you define criteria pollutants?

4 A NOx, SO2, PM10, et cetera.

5 Q And what qualifies a compound to become
6 a pollutant?

7 A That's out of my area of expertise.

8 MR. CLAYCOMB: Well, this is something
9 we're going to have to address sooner or later.
10 Maybe I can take care of it in my testimony.

11 HEARING OFFICER GEFTER: Do you have any
12 further questions of the witness at this point?

13 All right. The witness may be excused.

14 MS. DUNCAN: I - I do -- may I ask?

15 HEARING OFFICER GEFTER: All right. You
16 know, what I --

17 MS. DUNCAN: Mine'll be quick. Mine'll
18 be quick.

19 HEARING OFFICER GEFTER: I'm sorry, but
20 when I -- when I asked whether there was any cross
21 examination, it included you and Mr. Claycomb.

22 MS. DUNCAN: I thought you were
23 addressing him. My misunderstanding.

24 HEARING OFFICER GEFTER: Right. But we
25 -- we had already wound this down. All right.

1 MS. DUNCAN: Okay.

2 CROSS EXAMINATION

3 BY MS. DUNCAN:

4 Q In your Alternatives analysis, Eileen, I
5 noted that you did address distributed renewable,
6 but you did not address my proposal for the
7 smaller microgrid, smaller turbine anchored
8 proposal. Could you tell me why you did not
9 analysis on my proposal?

10 A I expected that Mr. Layton would be
11 addressing that in his Air Quality testimony.

12 MS. DUNCAN: That's fine.

13 HEARING OFFICER GEFTER: Okay. Are you
14 finished now?

15 MS. DUNCAN: I'm finished.

16 HEARING OFFICER GEFTER: All right. Ms.
17 Allen may be excused, and we're going to take
18 about a five minute recess, and then when we get
19 back Staff will call your next witness on
20 Alternatives.

21 Thank you.

22 (Thereupon a recess was taken.)

23 PRESIDING MEMBER LAURIE: To take a five
24 minute break, I think the five minute break was
25 being measured by Ms. Gefter's voter recount

1 method.

2 (Laughter.)

3 PRESIDING MEMBER LAURIE: We're missing
4 Staff.

5 MS. ALLEN: Mr. Ogata said that he
6 needed to make a telephone call downstairs, and I
7 expect him shortly.

8 PRESIDING MEMBER LAURIE: Okay. We can
9 proceed without him at this point.

10 Ms. Gefter.

11 HEARING OFFICER GEFTER: Yes. Now we
12 lost Commissioner Pernell.

13 PRESIDING MEMBER LAURIE: Commissioner
14 Pernell.

15 HEARING OFFICER GEFTER: Okay. We're
16 back on the record.

17 Before we proceed with testimony, we
18 understand that some of the local elected
19 officials are here, and that they would like to
20 address the Committee. I understand that
21 Supervisor Greg Cox is here, and we -- oh, okay.
22 And also Assemblywoman Denise Ducheny is also
23 here. And we'd like to hear from you.

24 SUPERVISOR COX: Thank you very much.
25 I'm Greg Cox, I happen to represent the First

1 Supervisory District, which includes the site of
2 the Otay Mesa facility.

3 I'm here this afternoon in strong
4 support of the application to build the Otay Mesa
5 Generating Plant, reinforcing the position taken
6 by my fellow colleagues on the Board of
7 Supervisors in a 5-0 vote on April 12th of this
8 year.

9 This project is to be sited in the
10 unincorporated area of San Diego County, as I
11 said, in my district, and has gone through and
12 continues to go through a long and complex
13 journey. However, this task has been made a lot
14 easier by the ongoing cooperation of all parties,
15 particularly between county staff and
16 representatives of PG&E Generating Company.

17 With so much at stake, it's easy to see
18 why cooperation was so easy to achieve. In
19 California over the past five years little new
20 energy generation capacity has been added, while
21 demand has risen -- has risen rapidly, spurred by
22 the state's pretty strong economy. This has been
23 -- that has resulted, I should say, in reserve
24 margins that are dangerously slim.

25 As you know, San Diego is one of the

1 region's most affected by the energy supply demand
2 and balance. No new power plant has been built in
3 this county in nearly 30 years. The resulting
4 power scarcity was one of the factors that led to
5 the high energy prices that we witnessed this past
6 summer.

7 We clearly need new generation capacity
8 in San Diego County. The Otay Mesa Generating
9 Plant and its 500 megawatt capacity will play a
10 significant role in achieving energy reliability
11 and therefore stability to the region. Providing
12 enough electricity for a half million new homes,
13 it will be one of the cleanest and efficient power
14 plants ever built. Excuse me.

15 As an important side issue to this whole
16 issue, the county has been working on trying to
17 encourage economic development on the East Otay
18 Mesa. We've worked very closely with the State of
19 California and Assembly Member Ducheney's office
20 in the creation of the border development zone,
21 which was put into effect last year, and Assembly
22 Member Ducheney carried some legislation this year
23 to further modify that.

24 That certainly will be a big impetus for
25 the East Otay Mesa to help create jobs. There are

1 already a lot of homes being built in the south
2 county, and there will continue to be more homes
3 built in the future, and what we need is to ensure
4 that we have a jobs/housing balance. This
5 particular power plant will be within the border
6 development zone, and would certainly be a part of
7 the equation of trying to ensure that we get
8 meaningful economic development in the East Otay
9 Mesa.

10 The other thing I just want to say is
11 that I've been extremely impressed with the work
12 that has been done by PG&E, particularly in the
13 area of trying to ensure that we have the
14 cleanest, most efficient power generation
15 facility, not only in this county or this state,
16 but in this country. I think they've gone to
17 extraordinary extents to ensure that the mobile
18 source emission reduction that will occur as a
19 result of their offsets with this power plant
20 being built is, I think, going to be a national
21 model that we can look to in the future as -- that
22 ought to be emulated in other areas that are being
23 -- building power plants.

24 The vast majority of air pollution that
25 we have in this county comes from mobile sources.

1 This power plant will help to reduce mobile
2 emissions by working with waste management to
3 basically convert their fleet of trucks that are
4 operating in San Diego County to -- to clean
5 burning fuels. That'll be a positive for the
6 region. As well, the agreement that they worked
7 out with the various harbor excursion operations
8 to remove their diesel engines on San Diego Bay.
9 That's a very unique concept. It's never been
10 allowed before, but it's one that I think will
11 certainly set the model for the future.

12 I want to thank you for the opportunity
13 to be here this afternoon and say a few words in
14 support of the PG&E power plant on the East Otay
15 Mesa.

16 HEARING OFFICER GEFTER: Thank you.

17 PRESIDING MEMBER LAURIE: Thank you,
18 sir.

19 HEARING OFFICER GEFTER: And Assembly
20 Member Ducheney.

21 ASSEMBLY MEMBER DUCHENEY: Thank you
22 very much. Most of my comment is ditto.

23 It's particularly important, I think,
24 after we saw what was occurring last summer here
25 in San Diego, that we think in terms of regionally

1 based, where we have access to hopefully soon
2 transmission lines that'll work for this, you
3 know, natural gas sources, and to a region that
4 clearly was one of the hardest hit -- was the
5 hardest hit last summer. Although I think the
6 other regions, they just didn't see it at the
7 retail level. The same thing occurred in other
8 parts of California, it just wasn't as visible.

9 And the fact that we were visibly out
10 front of that curve in San Diego argues strongly
11 to advance this particular plant. It has been
12 sited in cooperation with local planning
13 authorities, as the county indicated. It's in
14 county land, in an area that is, in fact, already
15 slated to have thousands of new homes in the next
16 ten years. It's an area that we are trying to
17 develop industrially.

18 It is an area -- it is where we have our
19 connection to the industrial Mesa de Otay in
20 Tijuana, which is also their major industrial area
21 in their planning. That's already in place.
22 There are already some factories that have gone in
23 on the Otay Mesa on our side, and we're certainly
24 looking to develop that further. We've -- we've
25 had discussions with biotech and some other high

1 tech industries about going down there, but
2 obviously, the key questions are always
3 reliability of water and energy supplies. Those
4 are critical to being able to do that, and to be
5 able to have a plant sited.

6 One of the earliest ones, and I know
7 this application has been in progress for a while,
8 but under the new, you know, efforts throughout
9 the state that I know you all are engaged in, to
10 -- with the Green Teams and everything else, to
11 try to advance the construction of these cleaner
12 -- and I want to emphasize, too, how important it
13 is that these new power plants, and this one is an
14 example of that, will be so much cleaner burning
15 than the older ones.

16 And getting some of these new plants
17 online, hopefully to the level where we can, in
18 fact, take out of service some of the -- the more
19 environmentally damaging plants that have been in
20 use in California for many years, and I know
21 there's other applications pending to convert some
22 of those and -- and some other things, that I
23 think we ought to be working expeditiously to
24 accommodate, because it clearly is going to be a
25 commodity that we're going to be much more

1 conscious of in these coming years.

2 And I think they are making the effort.

3 I think the concept of mobile source credits is
4 something we've talked about for a long time here,
5 as the stationary source credits sort of
6 disappeared and became a growing problem, at least
7 in this county, for people to even find stationary
8 credits. And -- and the mobile source arrangement
9 that -- that this plant was able to come up with
10 to convert buses and others, you know, really will
11 help air quality.

12 The new plant itself, I think it would
13 -- I know you guys have all the technical stuff,
14 but it's like two parts per million, or something.
15 I mean, it's a very small air emission, certainly
16 relative to existing power plants. And we believe
17 south county is -- is part of this county that's
18 growing rapidly, and is a -- is a great location
19 for where we should be able to meet -- I know
20 there's been work on bringing in natural gas
21 pipeline from Arizona. It would hit this before
22 it hits any other part of the county.

23 You know, some of those kind of things
24 come together in a -- in a really effective way on
25 this site, and we hope that it can be moved

1 forward as expeditiously as possible before we hit
2 the next round of crunch. And hope -- you know, I
3 know it can't be by next summer, but certainly
4 before the 2002, whenever summer, you know,
5 problems could occur.

6 We -- we need to ensure the reliability
7 to businesses as we try to continue economic
8 development, both in the border region and,
9 really, throughout the state. And I hope that all
10 of whatever, I know you've got a gang of technical
11 people here who know a lot more about the
12 specifics of it, but I hope that you all can work
13 through that carefully and deliberatively with
14 them, and still allow this to move forward as most
15 expeditiously as possible.

16 HEARING OFFICER GEFTER: Thank you.
17 Thank you very much.

18 Also, I understand that the Chamber of
19 Commerce, San Diego Chamber of Commerce is here.
20 And this is an opportunity for them to address us,
21 as well.

22 MR. CLAYCOMB: Ms. Gefter, does anybody
23 get a chance to cross examine --

24 (Laughter.)

25 HEARING OFFICER GEFTER: The -- we'll

1 have the Chamber of Commerce come forward. And
2 Commissioner Pernell, you have a comment?

3 COMMISSIONER PERNELL: Yeah, after the
4 Chamber of Commerce. I just wanted to say a few
5 words.

6 HEARING OFFICER GEFTER: Okay.

7 MS. MIER y TERAN: Thank you.

8 HEARING OFFICER GEFTER: Please tell us
9 your name.

10 MS. MIER y TERAN: My name is Alejandra
11 Mier y Teran. I represent the Otay Mesa Chamber
12 of Commerce. I believe someone from the Greater
13 San Diego is actually arriving in a few minutes.

14 Again, like Assemblywoman Ducheney said,
15 ditto. I just basically would like to express our
16 full support to this project on behalf of the Otay
17 Mesa community. I represent here today more than
18 400 companies and more than 16,000 employees.
19 We're very, very proud to have, like Assemblywoman
20 Ducheney said, one of the cleanest gas providers
21 in our area. And I can tell you this year has
22 been Otay Mesa's record-breaking year in terms of
23 property absorption, so our businesses need a
24 reliable source of energy.

25 Thank you, and I appreciate your time.

1 HEARING OFFICER GEFTER: Thank you.

2 Is there any other elected official who
3 would like to address us at this time?

4 Yes. Please come forward.

5 MR. STEIN: Hello. My name is Greg
6 Stein, I work for Congressman Brian Bilbray.
7 Unfortunately, he can't be here today as he's in
8 Washington.

9 I just wanted to make a few quick
10 comments on this project, and that is that Brian
11 has been involved in air pollution and reduction
12 of -- of emissions for quite some time. He served
13 on the California Air Resources Board, and as a
14 county supervisor was also involved with APCD,
15 obviously. And it was when he went to Congress,
16 he served on the -- the Health Environment
17 Subcommittee of the Commerce Committee, which is
18 involved in and responsible for implementing
19 developing our environmental policy nationwide.

20 One of the things that he was most
21 interested in -- in working on was the development
22 of a mobile emissions reduction credit program,
23 and although that policy is still in the
24 discussion stages and not yet law, he was quite
25 excited to learn about PG&E's generating process

1 here and the efforts that they would make to
2 implement an innovative process for -- for
3 utilizing those emission -- the mobile emission
4 reduction credits.

5 So, again, I guess I'm here just to say
6 that Congressman Bilbray is quite pleased and
7 supportive of the work the Commission has done,
8 working with these organizations to establish this
9 program. He feels that a MERC program should be
10 encouraged, and not just for in this individual
11 case, but -- but statewide. And he is certainly
12 available should the Commission have any need to
13 discuss further.

14 Thank you for the opportunity to speak
15 on his behalf.

16 HEARING OFFICER GEFTER: Thank you.

17 Is there any other elected official
18 here?

19 Commissioner Pernell.

20 COMMISSIONER PERNELL: Thank you. I
21 just wanted to take the opportunity to thank the
22 elected officials for representing San Diego well.
23 I think as the Energy Commission is the premier
24 energy agency in the state, at least I think so,
25 we are -- we are certainly concerned about not

1 just San Diego, but the entire state. We are
2 working aggressively with 970 as -- as the
3 Assembly and the Governor have signed it and given
4 to us, so we are stepping up to the plate.

5 I can't comment directly on these
6 proceedings, as you know, but I can tell you that
7 the Energy Commission is concerned about
8 California's energy and California's energy
9 future, and we will do everything we can to ensure
10 the reliability of that future.

11 HEARING OFFICER GEFTER: Thank you.

12 COMMISSIONER PERNELL: Thank you.

13 HEARING OFFICER GEFTER: We're going to
14 now go back to our evidentiary hearing, and
15 everyone is welcome to stay and observe.

16 We are going to take further testimony
17 on the topic of Alternatives. And Staff has a
18 witness.

19 PRESIDING MEMBER LAURIE: Question. Can
20 we identify this suitcase? Debi, is this yours?

21 MR. OGATA: Commissioner Laurie, that
22 belongs to me.

23 PRESIDING MEMBER LAURIE: That's yours.

24 (Laughter.)

25 COMMISSIONER PERNELL: Mr. Laurie's

1 suitcase.

2 PRESIDING MEMBER LAURIE: No, I just
3 want to make sure we identify -- I'm sure some
4 lawyer will fall on it for you.

5 (Laughter.)

6 HEARING OFFICER GEFTER: We're off --
7 we're off the record, right?

8 (Laughter.)

9 MS. REYES: Okay. Good afternoon. My
10 name is Clarissa Reyes. I'm with the San Diego
11 Regional Economic Development Corporation. And I
12 am speaking in support for PG&E's application to
13 construct a plant in the Otay Mesa.

14 Much of my -- many of my -- much of my
15 remarks have already been mentioned by Assembly
16 Member Ducheney and Supervisor Cox, but we feel it
17 needs to be said anyway.

18 The San Diego economy is on the upswing,
19 therefore there is a regional increase in energy
20 needs to sustain its business activity and growing
21 residential use from new housing developments
22 occurring throughout the region. This is the case
23 particularly in the south county area of San
24 Diego, where four out of ten houses are currently
25 being built. This trend is expected to continue

1 in the next ten to twenty years, with developments
2 occurring in the Otay Ranch, Rolling Hills and
3 Ocean View area.

4 Otay Mesa, located in the south county,
5 is also a potential site for significant economic
6 development and job growth, where it has been
7 touted as a future location for industry and
8 manufacturing plants. For these reasons,
9 assurance of a reliable supply of energy is needed
10 to sustain this prosperity.

11 Given the events from this past summer,
12 there is clearly a need for increased power
13 generating capacity in the growing Pacific
14 Southwest, particularly in San Diego. Therefore,
15 we urge support of necessary approval for PG&E's
16 construction of its generating plant in Otay Mesa.
17 Its advanced design, low energy emission
18 technology, and its planned conversion of diesel
19 trucks to natural gas to offset its emissions from
20 the plant make this project a true example of a
21 green environmentally sound plant called for by
22 the governor and the legislature.

23 Construction of the plant is a necessary
24 step in addressing San Diego's energy needs, and
25 that of the rest of the state. We emphatically

1 urge you to approve PG&E's application.

2 Thank you for your time.

3 HEARING OFFICER GEFTER: Thank you.

4 PRESIDING MEMBER LAURIE: Thank you.

5 HEARING OFFICER GEFTER: Is there anyone
6 else at this point who wants to address the
7 Committee?

8 MS. SEGNER: I believe Jessie Knight is
9 on his way. I'm not sure. I believe he's about
10 -- in the car, and they're approaching the
11 building.

12 HEARING OFFICER GEFTER: Well, we're
13 going to have to go forward with testimony, and
14 he'll have to wait until we conclude the
15 testimony.

16 Is Staff ready to go forward with your
17 witness on Alternatives?

18 MR. OGATA: Thank you, Ms. Gefter.

19 Commissioner Laurie, in this suitcase I
20 brought down 80 pounds of paper this morning. And
21 so I'm going to do a commercial, since I don't
22 want to have that effort gone in vain.

23 For those of you in the audience who did
24 not receive a copy of Staff's FSA Part 1 and Part
25 2, we brought several copies down with us, and I

1 think they're on the chair back here. So please
2 take them, so I don't have to carry them back to
3 Sacramento.

4 And I don't know if you want to
5 introduce Roberta Mendonca, the Public Adviser,
6 just in case -- she hasn't had an opportunity
7 yet, so Roberta's here.

8 HEARING OFFICER GEFTER: Yes. That's a
9 very good -- I neglected to introduce Roberta
10 Mendonca, who is the Commission's Public Adviser,
11 and is here to assist members of the public in
12 participating in this proceeding.

13 Okay. Thank you, Roberta.

14 MR. OGATA: And back to Alternatives,
15 Staff's last witness is Dr. Arthur Soinski.

16 Ms. Gefter, while he's approaching the
17 podium, we filed on October 27th a -- his resume,
18 and I'd like to have that marked as Exhibit next
19 in order, I believe Number 78.

20 And Dr. Soinski needs to be sworn.

21 (Thereupon Arthur Soinski was, by
22 the reporter, sworn to tell the
23 truth, the whole truth, and
24 nothing but the truth.)

25 DR. SOINSKI: Yes, I do.

1 TESTIMONY OF
2 ARTHUR SOINSKI
3 called as a witness on behalf of Commission Staff,
4 having first been duly sworn, was examined and
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. OGATA:

8 Q Dr. Soinski, could you please tell us
9 where you work and what your job title is?

10 A Yes. I work at the California Energy
11 Commission in the Research and Development office,
12 specifically the Public Interest Energy Research
13 Program, and my title is Energy Commission
14 Specialist 2.

15 Q And what -- what are your duties there?

16 A My duties at the current time, since May
17 of this year, focus primarily on what's called
18 environmentally preferred advanced generation
19 technology, specifically fuel cells and
20 microturbines. Prior to that, for a year and a
21 half I split my time between two PIER program
22 areas, one being renewables, where I was primarily
23 responsible for photovoltaics, and the other being
24 fuel cells.

25 Previous to that, I was at the

1 Commission for approximately 20 years involved in
2 contract management, technology assessments over a
3 large number of areas, with experience in fuel
4 cells going back about 15 years, and photovoltaics
5 going back approximately 20 years.

6 Q In Staff's Exhibit 74, which we filed on
7 November 9th, we have the Alternatives testimony,
8 the testimony of Arthur J. Soinski. Do you have
9 that before you?

10 A Yes, I do.

11 Q And is that your testimony in this
12 matter?

13 A Yes, it is.

14 Q Do you have any corrections or changes
15 you'd like to make at this time?

16 A There's only one minor correction, which
17 is in the paragraph beginning the manufacturing
18 costs for a number of products, in about the
19 fourth sentence I use the word "off", o-f-f-,
20 instead of "of". It's with reference to a selling
21 price of \$5 per watt as of 1999.

22 But except for that, my testimony is
23 correct.

24 MR. OGATA: Okay. For the record,
25 that's on page 3 of our filing, the fourth

1 paragraph at the end of the fifth line.

2 BY MR. OGATA:

3 Q Could you please summarize you
4 testimony, Dr. Soinski?

5 A My written testimony is confined to two
6 technology areas, photovoltaics and fuel cells.
7 And it covers in rather broad terms certain
8 aspects, namely, the commercial status as measured
9 by installed generating capacity; demonstrations
10 that have occurred, manufacturing capacity for
11 these; capital cost; operation and maintenance
12 costs.

13 With respect to the installed generating
14 capacity for fuel cells, there are four different
15 fuel cell types. The most mature of those is the
16 phosphoric acid fuel cell. There are
17 approximately 200 -- 200 kilowatt each
18 installations throughout the world, many of them
19 in the United States, a few in California.

20 With respect to the other three types of
21 fuel cells, the carbonate fuel cell, the solid
22 oxide fuel cell, and the protonic strange membrane
23 fuel cell, they are either at the development,
24 therefore pre-commercial phase. There are
25 commercial -- pre-commercial demonstrations

1 planned in the future, roughly in the year 2001,
2 and later.

3 Photovoltaics is certainly the most
4 widely distributed installed technology -- of
5 these two -- of these technologies in the state.
6 There are more than 10 megawatts of grid connected
7 photovoltaics in California. Most of these are
8 actually owned and operated by the Sacramento
9 Municipal Utility District, which started a
10 program called PV Pioneer in 1993, and they also
11 had some previous installations. The installed
12 costs are about \$5,000 per kilowatt, and on a
13 system basis are as high as \$10,000 per kilowatt.

14 That summarizes the -- the substance of
15 much of my testimony.

16 MR. OGATA: Thank you very much. Dr.
17 Soinski is available for cross examination.

18 HEARING OFFICER GEFTER: Does the
19 Applicant have cross examination of the witness?

20 MR. THOMPSON: We do not. Thank you.

21 HEARING OFFICER GEFTER: Okay. Do any
22 of the Intervenors have cross examination?

23 MR. CLAYCOMB: Yes, ma'am.

24 HEARING OFFICER GEFTER: Okay. Mr.
25 Claycomb.

1 CROSS EXAMINATION

2 BY MR. CLAYCOMB:

3 Q The first question, does the Energy
4 Commission ordinarily assume responsibility for
5 preparation of the Alternatives section?

6 Do I need to repeat the question?

7 Does the Energy Commission ordinarily
8 assume responsibility for preparing the
9 Alternatives section?

10 A I'm not sure if that question is
11 appropriately addressed to me. I believe it
12 should be either to Staff Counsel or to the
13 Project Manager.

14 HEARING OFFICER GEFTER: Are you asking
15 who writes the Final Staff Assessment?

16 MR. CLAYCOMB: Alternative analysis.

17 HEARING OFFICER GEFTER: Oh, the
18 Alternatives analysis of the Final Staff
19 Assessment?

20 MR. CLAYCOMB: Well, since I assume that
21 Dr. Soinski was testifying on Alternatives, I
22 thought he'd be able to answer that question for
23 me.

24 HEARING OFFICER GEFTER: Well, he wrote
25 the -- the testimony that he submitted, yes.

1 That's --

2 MR. CLAYCOMB: But my question is, why
3 wasn't that required of the Applicant?

4 HEARING OFFICER GEFTER: Your -- your
5 question is why wasn't what required of the
6 Applicant?

7 MR. CLAYCOMB: The discussion of
8 alternatives. The Applicant made no mention at
9 all of photovoltaics, any renewable alternatives.
10 Why did Staff have to assume that responsibility?

11 HEARING OFFICER GEFTER: Again, that's
12 not a question for this witness. Why don't you
13 ask him about this -- the content of his
14 testimony. We'll explain to you how the process
15 worked.

16 BY MR. CLAYCOMB:

17 Q Okay. Well, one of our problems is that
18 we aren't getting information out to the public.
19 So in his second paragraph, on page 1, under
20 photovoltaics, he mentions in 1980 they held a
21 workshop. Was that the only workshop that they've
22 held?

23 A I've ranged rather broadly over my
24 testimony. I was trying to provide some
25 background as far back as -- to really outline the

1 Energy Commission's work in photovoltaics and fuel
2 cells. The earliest date I know when we really
3 did anything on photovoltaics was in 1980.

4 The Energy Commission has funded several
5 different research, development and demonstration
6 projects. It was the first funder of PVUSA, which
7 is a research, development and demonstration
8 project near Davis, California, which attracted
9 approximately \$35 million in funding from the
10 federal government, the Electric Power Research
11 Institute, the California Energy Commission, and a
12 number of utilities, several of them in the state
13 of California.

14 So we've done a number of things. We've
15 published something called the Technology
16 Assessment Status Report. We've had various
17 commercialization programs. We have a buy-down
18 program now. We have an education program as part
19 of the buy-down program, which I believe has
20 roughly \$5 million in funding, and that is
21 currently going on.

22 So I can tell you about some of the
23 things. I was not trying to chronicle every
24 single activity that the Energy Commission has
25 conducted over the -- the past 20 years. I was

1 trying to just give some indications of the types
2 of things that we have done.

3 Q Has the Energy Commission ever conducted
4 a PR campaign to inform the public about
5 alternatives?

6 A Well, to my knowledge, the -- the one
7 program I do know of is the current education
8 program associated with the buy-down, the
9 renewables buy-down account. And I said that's a
10 \$5 million program. I am not in that office, and
11 I am not an expert on the actual implementation of
12 that program.

13 Q All right. In the last paragraph on
14 page 1, Dr. Soinski mentions the Commission's \$54
15 million buy-down program, and talks about fuel
16 cells that use renewable fuel.

17 A That's correct.

18 Q I was wondering what the renewable fuel
19 is.

20 A It has -- this is in the legislation.
21 This is fuel that comes from biomass landfill gas,
22 sewage digester gas. So it cannot be natural gas.
23 It has to be from -- from some biological source.
24 Or from some waste.

25 Q Okay. Well, again, getting back to PR,

1 it just -- the Speaker of the House in Arizona
2 just had to resign his position because he was
3 promoting an alternative fuels campaign, and
4 saying it would cost only one to \$3 million. And
5 it wound up that they were going to be committed
6 for over \$480 million to fund that campaign, and
7 he had to resign because he got so much pressure
8 because he had underestimated that.

9 The question is, why can't we do
10 something similar in California to get that kind
11 of interest in the alternatives?

12 COMMISSIONER PERNELL: Commissioner
13 Laurie might have to resign?

14 (Laughter.)

15 PRESIDING MEMBER LAURIE: Sounds okay to
16 me.

17 MR. CLAYCOMB: Whatever it takes.

18 THE WITNESS: I've resigned once, so I
19 can do it again. Actually, I retired once.

20 But that's a policy question, so I
21 assume you're addressing that to -- to the
22 Committee, rather than to me. I mean, I --

23 MR. CLAYCOMB: I'm addressing it to
24 whoever can do something about it. And the Staff
25 has professional responsibility. I know where the

1 decisions are made, but if they aren't getting
2 pressure from below, and I was a bureaucrat once
3 so I know what the problem is. But if they aren't
4 getting pressure from below, or even information,
5 they're not going to do that.

6 BY MR. CLAYCOMB:

7 Q Okay. I have another question here. In
8 the first paragraph on page 3, I think I
9 calculated the price of a kilowatt of \$5400. Is
10 that correct?

11 A I'm sorry. Where -- I have -- I have my
12 original typed version, I don't have the final
13 version that was docketed, so --

14 Q Well, I can tell you --

15 A -- if you could give me the first words
16 in the paragraph, I can find them.

17 Q The Sacramento Municipal Utility
18 District, the Los Angeles Department of Water and
19 Power --

20 A Okay. Yes. Right, it's -- yeah, these
21 are some various buy-down programs that the
22 municipal utilities have in addition to the
23 California Energy Commission's buy-down program.
24 And what was your question, then?

25 Q Well, the question is, that would -- the

1 way I look at, I read it, it would mean a \$5,400
2 per kilowatt cost.

3 A I don't see where you get --

4 Q Well, 270 a watt resulting in a 50
5 percent cost reduction, the original cost must've
6 been about 540.

7 A 540 a watt --

8 Q A watt.

9 A -- roughly. Yes, that -- that's one of
10 the things that SMUD is claiming as their cost.

11 Q So that would mean a \$5400 per kilowatt.

12 A That is correct. As the original
13 installed price. Correct.

14 Q Okay. In the next paragraph, then,
15 we're talking about approximately 50 percent of
16 the installed system cost would be \$5 per watt.

17 A That's right. This is for the LADWP --

18 Q Right.

19 A -- program. They -- there are different
20 programs, they have different price structures and
21 different assumptions. And --

22 Q Well, could you explain to me why one of
23 them only costs \$5400 --

24 A Okay.

25 Q -- while the other one costs 10,000?

1 A This is -- the SMUD PV pioneer program
2 has been done in -- in conjunction with a captive
3 manufacturer, whereby the manufacturer is agreeing
4 to a series of cost reductions over time in return
5 from guaranteed orders.

6 As I understand it, the LADWP program is
7 a program whereby the customers go out into the
8 marketplace, and since there is not this -- this
9 special structure of a commitment from a single
10 manufacturer, it's spread under a large number of
11 manufacturers, and the costs are higher.

12 The costs here are pretty much similar
13 to those that Eileen Allen quoted in her
14 testimony, with respect to the experience of the
15 buy-down program as to the costs that customers
16 actually paid through 1999 for rebates under the
17 Energy Commission's buy-down program. The costs
18 ran up, on average, up to somewhere close to \$10 a
19 watt, I think \$9.38, or something like that were
20 the numbers that Eileen quoted in her testimony.

21 So there's a difference in the cost
22 because there's different programs, and
23 procurement strategies are different.

24 Q Okay. Well, I need --

25 A I'm sorry that that wasn't -- I perhaps

1 should not have quoted these numbers without
2 really going into a further explanation of why
3 there are these differences. But it's different
4 because of who's selling and who's procuring.

5 With LADWP and the state program, the
6 customer is procuring. With the SMUD program,
7 SMUD is procuring. And therefore they -- they
8 have different ground rules and different pricing
9 structures.

10 Q We just need to capture some more
11 manufacturers.

12 Another question, then. In the third
13 paragraph on page number 3. As I understand that,
14 you say most shipments went overseas.

15 A That is correct.

16 Q Can you tell me why, when it's such a --
17 why it's such a good alternative, all the U.S.
18 shipments would be going overseas instead of being
19 used at home?

20 A Well, I'm not an expert in this area,
21 but it's -- it's that the Third World market will
22 support higher prices than the domestic market
23 will support. Because you're competing against
24 basically diesel that's hauled in by, you know,
25 wagon, rather, you know, rather than competing

1 with a grid electricity structure. So it's
2 because your -- your -- what you're really selling
3 against is something very different. It's remote
4 -- remote diesel, remote photovoltaics versus grid
5 connected photovoltaics and a utility grid as we
6 have in the United States.

7 Q Do you think most of these -- most
8 shipments going overseas, then, are going to Third
9 World nations?

10 A Yes, they are.

11 Q Okay.

12 A Although there are substantial programs
13 now in Japan and France, but I don't think our --
14 or Japan and Germany, but I don't think that the
15 U.S. is selling appreciably into those markets.

16 Q Well, recent information I got two weeks
17 ago, I'm wondering if you're aware I've heard of
18 this same information, is that all the plants in
19 the world that manufacture photovoltaics now have
20 their output committed for months, or some of them
21 even years in advance.

22 A My understanding is that the demand is
23 exceeding the supply at the present time.

24 Q In the fourth paragraph on page 3, you
25 mention a cumulative production volume twice. For

1 how many years is that -- do you mean cumulative?

2 Is that per year, or --

3 A No, that -- that's all that has been
4 shipped over like the last, you know, 15 years or
5 something like that.

6 Q Okay.

7 A Worldwide. It's growing by
8 approximately 25 percent per year.

9 Q I was wondering -- in the 14th European
10 Photovoltaic Conference in Barcelona in July 1997,
11 a proposal was made by -- a study was made by
12 British Petroleum to build a \$550 million 500
13 megawatt factory producing photovoltaics. Were
14 you aware of that proposal by -- or study by
15 British Petroleum?

16 A Unfortunately, I was not allowed to
17 travel to Barcelona. But, no, I'm not aware of
18 that. Now, you probably are aware that BP Solar
19 is one of the major owners of photovoltaic
20 manufacturing worldwide. They own a plant in
21 Fairfield, California. They -- well, it used to
22 be called Solarex, in Maryland and Virginia.

23 Q Well, would you consider that an
24 alternative to building a 500 megawatt power
25 plant, then?

1 A I'm sorry. This is --

2 Q Building a factory to manufacture 500
3 megawatts per year of photovoltaic panels as an
4 alternative to building a 500 megawatt, or several
5 500 megawatt power plants?

6 A It seems like they're two very different
7 things. I mean, I --

8 Q They're both supplying electricity.

9 A Well, the power -- the photovoltaic
10 manufacturing plant would supply photovoltaic
11 modules which generate electricity. But someone
12 has to install and buy the modules. So I don't --
13 I don't see how that's -- that's an alternative to
14 installing a natural gas plant.

15 Q Well, I guess maybe I'm the only one
16 that sees it as an alternative.

17 HEARING OFFICER GEFTER: Mr. Claycomb,
18 how many more questions do you have?

19 MR. CLAYCOMB: Let's see. We're talking
20 Alternatives here. Yes. Well, according to the
21 information I have from Technology Investors, this
22 is where everybody makes the money nowadays --

23 HEARING OFFICER GEFTER: I just want to
24 know how many more questions you have.

25 MR. CLAYCOMB: One.

1 HEARING OFFICER GEFTER: One more. All
2 right.

3 BY MR. CLAYCOMB:

4 Q Plug Power is the name of the company,
5 and they're -- have allied themselves with General
6 Electric, and they are proposing to put out
7 100,000 -- 10,000 residential units in 2001, rated
8 at seven kilowatts, for seven to \$10,000 a year --
9 I mean, seven to \$10,000 per unit, per seven
10 kilowatt unit.

11 Shouldn't that be considered as an
12 alternative to building a large central generating
13 plant?

14 A Well, I don't know if I want to pick on
15 Plug Power. But I did meet with two
16 representatives of Plug Power on Wednesday, here
17 in San Diego. Actually, on Thursday, at a -- a
18 CADER conference, California Association for
19 Distributed Energy Resources. And my
20 understanding is that as of the end of this year
21 they expect to have something like 120 fuel cells
22 developed. They are going to build out and sell
23 an increasing number of units to very targeted and
24 specific markets over the next few years, but they
25 are not really now expecting a commercial unit

1 until the year 2002 for general purchase.

2 And I don't want to pick on Plug, but I
3 think that fuel cells, if you've looked at what
4 happened to their stock after their initial public
5 offering and then the collapse of their agreement
6 with General Electric and the renegotiation, it
7 went from like \$14 to \$100 to \$14 again, which is
8 roughly where it is today. But I'd call that
9 technology development by press release. And
10 having been in the business of funding and
11 managing R&D contracts over the last 20 years, I
12 don't believe something until I see it.

13 So until I really see some -- some
14 placement of Plug units, or anybody else's, IDA
15 Tech's, or anybody else's units in -- in real
16 markets, I really won't believe that they're
17 really available as alternatives. I don't
18 consider any -- fuel cell technology to be
19 commercially available, or even pre-commercial
20 today.

21 MR. CLAYCOMB: That's all the questions
22 I have.

23 HEARING OFFICER GEFTER: Thank you.

24 Are there any other cross examination?

25 Okay, Ms. Duncan.

1 Let's go off the record just one minute.

2 (Off the record.)

3 HEARING OFFICER GEFTER: Okay. Ms.
4 Duncan.

5 MS. DUNCAN: My turn?

6 HEARING OFFICER GEFTER: Yes.

7 CROSS EXAMINATION

8 BY MS. DUNCAN:

9 Q Dr. Soinski, in Research and Development
10 office, most of the models and discussions that
11 we're having here revolve around cost. I was at
12 the CADER conference also, and it's my
13 understanding, and we've talked a lot here today
14 about reliability for business. Can you help all
15 of us understand here how some of these
16 technologies perhaps might offer a higher level of
17 reliability to our new high tech and bio-tech
18 industries that we're trying to attract here?

19 A Right. Well, if -- if you were at the
20 conference and heard the comments of -- of David
21 Freeman and Emory Levins, and some other people,
22 what -- what they said, these -- these are not --
23 this is not really, you know, my knowledge,
24 because I haven't calculated it. But they say
25 that a conventional plant has something like three

1 nines of reliability. And if you get multiple
2 fuel cell systems together you can get up to six
3 nines reliability.

4 Sure Power is selling a system composed
5 of fuel cells, diesel generators, flywheels, that
6 they will guarantee six nines reliability.
7 There's one of those operating at a credit card
8 processing center in Omaha, Nebraska. There's a
9 one megawatt fuel cell base system, it's five of
10 the 200 kilowatt -- units operating up in Alaska.
11 And I don't know how many nines that system has,
12 but they were looking for high reliability, and
13 they were willing to pay for it. They paid \$5,500
14 per kilowatt for that, to get that high
15 reliability, because it is a major regional mail
16 processing center.

17 So if you get large numbers of dispersed
18 technologies properly controlled, the -- I mean,
19 there is at least, as I said, one company that
20 will guarantee six nines reliability.

21 Q Next question is, do you, in your
22 viewpoint, see a future for this kind of
23 technology in terms of helping solve some of our
24 problems in a region like ours, that has serious
25 infrastructure restrictions to building new power

1 plants, in addition to environmental restrictions,
2 do you see this as an emerging technology to help
3 fill that void, so to speak, as is done often in
4 developing countries? Do you see any
5 similarities, or possibilities there?

6 A Well, the -- the group that I'm in, the
7 Energy Technology Advancement program part of
8 PIER, is really looking at promoting the
9 development of distributed energy resources, in
10 part because of the reliability that they provide.
11 But we have not done a formal study of how we
12 might actually build out those technologies in the
13 field to actually attain a certain level of
14 reliability.

15 So for me to really, you know, state
16 something other than the fact that, you know,
17 there are companies that'll guarantee certain
18 levels of reliability with multiple resources, I
19 really don't want to go to the point of saying
20 what type of reliability the grid might have if
21 you had multiple dispersed generation. You know,
22 there -- there have been statements that it will
23 improve reliability, but beyond that I really have
24 no personal knowledge, and nor have I investigated
25 it in detail to really, you know, say how -- how

1 much reliability you might gain with distributed
2 generation.

3 A lot depends on how they're controlled
4 and dispatched, obviously.

5 Q Can -- can you, in your knowledge, tell
6 us what the reliability is of our current
7 configuration, which is centralized power plants
8 feeding into a grid. Do you know what the
9 reliability is for the grid?

10 A I'm sorry, I'm not a reliable engineer,
11 and I haven't seen the -- the runs that have been
12 done with these dispatch models for a long time,
13 and I really don't know what the reliability
14 measures are.

15 Q In your research, do you -- in terms of
16 research and development, deal with customers who
17 are telling you that they have equipment that is
18 so sensitive that it needs this level of
19 reliability that I learned at the CADER
20 conference? And is that going to be a problem for
21 us in our future?

22 A Well, people have not -- customers have
23 not really come to us asking us to address that
24 issue. At least they haven't come to me, or to my
25 group, to my knowledge.

1 Q Do you know why they are using
2 distributed generation at that center in Omaha,
3 Nebraska?

4 A Oh, because -- I don't remember what the
5 numbers are, and you heard those at the CADER
6 conference, but it's multi-million dollars of loss
7 in processing time if they go down for even a few
8 seconds. So they need a high reliability, because
9 -- because of the operations that they have. It's
10 -- it's these -- these data centers are expected
11 to be major consumption areas, and also areas that
12 require very high reliability. Probably on the
13 order of six nines. Which is something like, I
14 don't know, 30 seconds a year, or something like
15 that, of down time, I believe.

16 Q Well, my understanding was that that
17 particular center was the center for Visa and
18 MasterCard in the United States, and they went
19 down and they lost a lot of data.

20 A Right. I mean --

21 Q And it was a big problem for all of us.

22 A -- it happens in the semi-conductor
23 industry. I mean, there are, I understand,
24 particular manufacturers in Silicon Valley who
25 have installed their own equipment as backups,

1 and, of course, hospitals and such have been using
2 backup systems as reliability for a long time. So
3 this is nothing really completely new. It's just
4 I think the magnitude of it is --

5 HEARING OFFICER GEFTER: Ms. Duncan --

6 THE WITNESS: -- is increasing.

7 HEARING OFFICER GEFTER: I didn't mean
8 to interrupt your testimony, but I did want to ask
9 Ms. Duncan to focus in on this project, and
10 connect your questions to the project before us.

11 BY MS. DUNCAN:

12 Q You say you've also done research in
13 micro-turbines?

14 A That's one of the areas that I'm
15 responsible for, yes.

16 Q Okay. And can you help us understand
17 how -- how they could be used in a dispersed
18 situation, micro-grid situation to increase
19 reliability?

20 HEARING OFFICER GEFTER: Again, I want
21 you to -- for our record, we need to have
22 information that's related to this project. So if
23 you could frame your question in respect to this
24 project.

25 MS. DUNCAN: Aren't we on Alternatives?

1 HEARING OFFICER GEFTER: Yes, we are.

2 But I want to -- we're ranging to all over the
3 country and all kinds of questions. Let's focus
4 --

5 MS. DUNCAN: Well, he said --

6 HEARING OFFICER GEFTER: -- in on --

7 MS. DUNCAN: -- he said he worked on --
8 his report's on fuel cells and solar
9 photovoltaics, but he said he did work in
10 microturbines. And we don't have any analysis of
11 that, so I'd like something in that area to be on
12 the record as part of this proceeding.

13 HEARING OFFICER GEFTER: Okay.

14 MS. DUNCAN: I'd appreciate that, if
15 you'd let him answer that question.

16 THE WITNESS: Well, microturbines are --
17 are still in the early installation and
18 demonstration phase, and one of the problems I see
19 with them is that they have low electricity to --
20 or fuel to electricity conversion efficiency.
21 We're doing a study right now with the National
22 Fuel Cell Research Center at the University of
23 California, Irvine, to actually address that. So
24 we recognize that it's an issue, but we don't
25 really have the numbers as to what the

1 reliability, availability, maintainability and
2 durability of microturbines is. But we recognize
3 that is an important issue, and we have, I think,
4 about a \$400,000 project with them to address that
5 point.

6 So I really can't answer the question.
7 All I can tell you is that we are looking at it,
8 and we are proceeding with -- with that study.

9 MS. DUNCAN: Thank you. That's all I
10 have.

11 HEARING OFFICER GEFTER: Thank you.

12 All right. Does the Staff have any
13 redirect of its witness?

14 MR. OGATA: We have no further
15 questions.

16 HEARING OFFICER GEFTER: All right.

17 Mr. Soinski, thank you very much. You
18 may be excused.

19 THE WITNESS: Thank you.

20 HEARING OFFICER GEFTER: Did you have
21 any exhibits that you wish to move into the
22 record?

23 MR. OGATA: Yes, thank you, Ms. Gefter.
24 We'd like at this time to move Exhibit 78, which
25 was Dr. Soinski's resume, into the record. And I

1 believe upon the conclusion of all the testimony
2 with respect to Exhibit 74, we'll move that in at
3 that time.

4 HEARING OFFICER GEFTER: All right.

5 MR. OGATA: So currently, just Exhibit
6 78.

7 HEARING OFFICER GEFTER: Is there any
8 objection to Exhibit 78 being received into the
9 record?

10 MR. THOMPSON: None.

11 HEARING OFFICER GEFTER: Okay. Exhibit
12 78 is now received into the record.

13 (Thereupon Exhibit 78 was received
14 into evidence.)

15 HEARING OFFICER GEFTER: At this point,
16 we'll go off the record.

17 (Off the record.)

18 HEARING OFFICER GEFTER: Okay. Mr.
19 Knight.

20 MR. KNIGHT: Thank you. My remarks will
21 be brief. I'm Jessie Knight, and I'm President
22 and CEO of the San Diego Regional Chamber of
23 Commerce. And it's good to have you here, and
24 good to see you, Commissioner Laurie. It's been a
25 while. And it's interesting for me to be on the

1 other side of the microphone on this particular
2 topic.

3 I just want to formally put, and notify
4 the Commission about our organization's support
5 for this project. The Otay Mesa Generating
6 Project is the beginning to the solution set of a
7 very complex issue. This project means not only
8 jobs and investment in infrastructure here for a
9 problem that obviously has dominated the news.
10 And the Chamber and its 3,500 businesses
11 representing about 411,000 employees in those
12 businesses, have voted unanimously in support of
13 this project.

14 The -- we need to move on aggressively
15 with this to get it approved. We hope that it
16 moves ahead expeditiously. The kleig lights are
17 on California. Having dealt with this issue for
18 -- for years now, I think that it's -- it's up to
19 an organization, an esteemed body such as the
20 Commission, to step forward to help resolve some
21 of these infrastructure problems that we face.

22 The line of questioning that I've heard
23 on the trade-offs of one versus another,
24 California calls for a multiple solution to our
25 energy problems. I have been a great supporter of

1 distributed generation. I am a great supporter of
2 this project. The greater the multiplicity of --
3 of options we have for this state, the better off
4 we are.

5 So on behalf of my membership, and on
6 behalf of the business community here in the
7 county, we want to -- to put our support of this
8 project formally on the record.

9 And I thank you for the time to be able
10 to this.

11 PRESIDING MEMBER LAURIE: Thank you.

12 COMMISSIONER PERNELL: Thank you.

13 HEARING OFFICER GEFTER: Thank you.

14 Is there anyone else who wishes to
15 address the Committee at this time?

16 MR. SHUR: Good afternoon. My name is
17 Allen Shur, and I -- I pretty much represent the
18 other side of the spectrum in this regard. I'm
19 the business manager of the Electrical Workers
20 Union here in San Diego, IBEW Local 569. My union
21 is also a member of CURE, California Unions for
22 Reliable Energy. And my members are construction
23 workers in this area.

24 CURE is not offering any sworn testimony
25 in this case, but I did want to make a brief

1 comment.

2 As you know, San Diego has been the area
3 where consumers have been hardest hit by the
4 shortage of generation. It's also an area that
5 has to import electricity to meet our local needs.
6 We need more generation in San Diego, especially
7 generation that uses our limited gas supply more
8 efficiently.

9 We also need generation like this
10 project that uses dry cooling, and uses the very
11 best air pollution control system. This means
12 that the project will use very little fresh water
13 and very few pollution credits. For construction
14 workers like my members, projects like Otay Mesa
15 allow continued sustainable development in San
16 Diego. Our future jobs depend on not squandering
17 fresh water, and air pollution credits, and this
18 project gets it right for electricity generation -
19 - and electricity consumers for the environment
20 and for the local economy, both now and in the
21 future.

22 From everything I've heard, this
23 Commission does a good job evaluating issue --
24 issues raised by Intervenors. I'm sure you will
25 do that in this case, too.

1 My request to you is that you evaluate
2 the issues promptly, decide on whatever conditions
3 of approval are needed, and move this case to a
4 final decision as quickly as possible.

5 Thank you.

6 PRESIDING MEMBER LAURIE: Thank you,
7 sir.

8 COMMISSIONER PERNELL: Thank you.

9 HEARING OFFICER GEFTER: Thank you.

10 All right. Now we'll return to
11 testimony on Alternatives.

12 I think Mr. Claycomb wanted to present
13 testimony on the topic.

14 MR. CLAYCOMB: Yes, ma'am. I'd like to

15 --

16 PRESIDING MEMBER LAURIE: We will want
17 to swear him, Ms. Gefter.

18 HEARING OFFICER GEFTER: Okay. Would
19 you be sworn.

20 (Thereupon William Claycomb was,
21 by the reporter, sworn to tell the
22 truth, the whole truth, and
23 nothing but the truth.)

24 MR. CLAYCOMB: I do, so help me God.

25 I've got to lay some groundwork here.

1 HEARING OFFICER GEFTER: You need to put
2 your microphone closer to you. Thank you.

3 MR. CLAYCOMB: I need to just lay some
4 groundwork. It'll take a few minutes, but
5 there've been a lot of minutes taken today.

6 Save Our Bay, Inc., has put into the
7 record, or submitted three data requests, seven
8 status reports, and one -- I'm sorry, seven
9 declarations, one status report. We will
10 summarize from highlighted portions discussing
11 global warming, as follows.

12 HEARING OFFICER GEFTER: Mr. Claycomb,
13 your documents are identified as Exhibit 71, and
14 all of the information that you submitted is part
15 of that exhibit.

16 MR. CLAYCOMB: And you think that will
17 be enough so that everybody considers them?

18 HEARING OFFICER GEFTER: It's in the
19 record.

20 MR. CLAYCOMB: Okay. Well, they should,
21 because I do want to give one page in particular,
22 and I'll just limit my testimony to that page now.

23 HEARING OFFICER GEFTER: And then after
24 you tell us about it, you can move Exhibit 71 into
25 the record.

1 MR. CLAYCOMB: You say after I tell you
2 about it?

3 HEARING OFFICER GEFTER: Yes.

4 MR. CLAYCOMB: You'll move the whole
5 thing into the record.

6 HEARING OFFICER GEFTER: Yes.

7 MR. CLAYCOMB: Okay. Well, on page 8 of
8 8, of that testimony, and this -- this does not
9 include declarations 6 and 7, nor does it include
10 one document submitted at the Prehearing
11 Conference. It was dated October 27th, 2000, the
12 subject was additional testimony for Prehearing
13 Conference, statement of Save Our Bay, Inc.

14 And now the page I want to refer to,
15 because this has been history repeating itself
16 over and over and over again, and we can't have
17 anymore of it.

18 The human race is now in jeopardy. This
19 is just a short history of alternatives that have
20 gone through in the past.

21 In 1973, the major corporation reporting
22 to the National Science Foundation in December
23 stated costs for photovoltaics may drop to about
24 50 percent per watt by 1985, and ten cents per
25 watt by 2000. 1974, Mobil Oil, and that's

1 probably a part of the problem, Mobil Oil
2 contributed \$30 million to photovoltaic solar
3 panel project by Tyco Industries of Waltham,
4 Massachusetts, according to Forbes Magazine,
5 10/15/74.

6 In June 1974, as previously pointed out,
7 at least four witnesses, including the National
8 Science Foundation Director, gave expert testimony
9 estimating that by or before the year 2000,
10 photovoltaic panels would sell for \$500 or less
11 per kilowatt.

12 HEARING OFFICER GEFTER: Excuse me, Mr.
13 Claycomb. I notice you're reading through this,
14 is this a document that's part of your exhibit?

15 MR. CLAYCOMB: Okay. Well, then I --

16 HEARING OFFICER GEFTER: It's -- it's
17 one of the pieces of paper that you submitted to
18 us.

19 MR. CLAYCOMB: Yes.

20 HEARING OFFICER GEFTER: So we can read
21 it. Is there something you want to just highlight
22 in this list?

23 MR. CLAYCOMB: I want to highlight the
24 fact that we've been promised these alternatives
25 for half as long as I've been alive, and they

1 aren't here yet. And they aren't here yet because
2 they've been killed before they were born.

3 Now, I think maybe we're going to break
4 out of that because, as I mentioned earlier, all
5 the photovoltaics -- not -- there's been so much
6 talk today I'm not sure what I said and what I
7 didn't say -- all the output of all of the voltaic
8 -- photovoltaic factories in the world are now
9 committed for years or months in advance. Maybe
10 we'll break out of it, but we just can't continue
11 burning up resources that are running out, and are
12 needed for other purposes much worse than they are
13 for fuel.

14 And then if you'll enter all of these
15 into the record, I guess that'll have to take care
16 of it.

17 HEARING OFFICER GEFTER: All right. Is
18 there any objection to Exhibit 71 being received
19 into the record?

20 MR. THOMPSON: We have none, but we'd
21 like to take the opportunity to thank Mr. Claycomb
22 for his contribution to the record, and his
23 participation.

24 HEARING OFFICER GEFTER: Thank you.
25 Thank you, Mr. Claycomb.

1 COMMISSIONER PERNELL: I want to say
2 something.

3 HEARING OFFICER GEFTER: Yes.

4 COMMISSIONER PERNELL: Was there any
5 other documents you wanted entered into the
6 record?

7 MR. CLAYCOMB: Well, I -- did I mention
8 the fact that Clinton just said we want to start
9 limiting carbon dioxide output? That's the
10 latest. That brings it up to date.

11 COMMISSIONER PERNELL: Thank you.

12 HEARING OFFICER GEFTER: Hearing no
13 objection, Exhibit 71, which is Save Our Bay's
14 proposed exhibits, written testimony, which was
15 submitted on November 8th, is received into the
16 record.

17 (Thereupon Exhibit 71 was
18 received into evidence.)

19 HEARING OFFICER GEFTER: Okay.

20 PRESIDING MEMBER LAURIE: Thank you,
21 sir.

22 HEARING OFFICER GEFTER: Thank you.

23 Does anyone have cross examination of
24 Mr. Claycomb?

25 No. All right. Ms. Duncan also has

1 testimony on Alternatives?

2 MS. DUNCAN: Yes.

3 HEARING OFFICER GEFTER: And we'll also
4 swear you in.

5 (Thereupon Holly Duncan was, by
6 the reporter, sworn to tell the
7 truth, the whole truth, and
8 nothing but the truth.)

9 MS. DUNCAN: I do.

10 I'll allow my document to stand as my
11 testimony. I would like the opportunity to
12 clarify a couple of concepts, I guess, in my
13 document.

14 HEARING OFFICER GEFTER: Okay. I have
15 two -- two documents. One is Exhibit 69, which is
16 your testimony on Alternatives filed November 8th.
17 And then Exhibit 70 is your exhibit and witness
18 list, your cross examination and testimony for the
19 evidentiary hearings, also filed November 8th. So
20 you have to exhibits.

21 MS. DUNCAN: All right. When I stated
22 in my document putting microturbines, I want to
23 clarify what I am talking about is not necessarily
24 the teeny-weeny ones. I'm talking about the ones
25 that this Commission does not certify, I would say

1 anything from 49 megawatts under is what I am
2 referring to.

3 I am specifically referring to natural
4 gas fired, although I think a mix including fuel
5 cells and solar photovoltaics would mesh nicely
6 with my proposal. And when I talk about already
7 biologically degraded areas, I'm talking about
8 what I'm seeing emerging at UC Irvine as a power
9 park. And I see that we could retrofit many of
10 our areas that are already biologically degraded
11 in San Diego into such power parks.

12 One power park is UC San Diego, which
13 will be coming online in March of 2001, and they
14 will free up power on the grid to 27,000 homes.
15 So that's part of what Otay Mesa wants to do, and
16 it looks like UCSD will get the first shot at
17 freeing up some of our grid problems to homeowners
18 and future residents of our area.

19 I would like to suggest again that my
20 understanding of a merchant plant is that not
21 necessarily any of this power stays in my
22 community. It is not clear to me, in terms of
23 adding a plant like this to the grid, what is the
24 direct benefit to my community, but the power in
25 power parks stays in my community, directly

1 contributes to helping to build the economy here
2 by stabilizing what has for us, this summer, been
3 an extremely volatile roller coaster ride.

4 It is my understanding that the
5 businesses that rely on very high reliability and
6 very high quality power prefer this, and that
7 price is not necessarily an issue for them,
8 because being down and losing money daily because
9 your system is down is very, very expensive. And
10 in terms of cost projections for a company, they
11 need to know what their cost for electricity is
12 going to be. And right now, in San Diego, none of
13 us know. We never know what our cost is on a day
14 to day basis anymore. We know when we get the
15 bill, and that's when we find out. And this is
16 not happy.

17 So I believe that my proposal obviates
18 many of the biological problems that we have here.
19 My understanding is that many of these small
20 technologies have catalysts such as Zonan, which
21 is now out, and commercialized, available to use
22 to make these exceptionally clean. And also, if
23 they are a combined heat and power, they can hit
24 efficiencies that no centralized power plant can,
25 so that we are getting many benefits in terms of

1 how efficiently we are using our precious natural
2 resources of natural gas and water, far superior
3 to a centralized power plant.

4 It's also my understanding that these
5 are direct competitors with new centralized power
6 plants, so I'm not unaware that there'll be a lot
7 of opposition to this proposal. But I put it out
8 there because I personally believe that this is
9 truly the most viable way to solve San Diego's
10 energy problems for San Diegans who want the power
11 to stay here and be of our benefit.

12 HEARING OFFICER GEFTER: With respect to
13 your proposal, are you suggesting that PG&E
14 actually implement your proposal, instead of
15 building their power plant?

16 MS. DUNCAN: Yes.

17 HEARING OFFICER GEFTER: Do you have any
18 other questions or any other comments for -- do
19 you have any other comments for us?

20 MS. DUNCAN: No. That concludes my
21 comments.

22 HEARING OFFICER GEFTER: Is there any
23 cross examination for Ms. Duncan?

24 MR. THOMPSON: No, thank you.

25 HEARING OFFICER GEFTER: Okay. Okay,

1 Ms. Duncan, your testimony is complete. Do you
2 want to move your exhibits into the record?

3 MS. DUNCAN: Please.

4 HEARING OFFICER GEFTER: Okay. Any
5 objection to Exhibits 69 and 70 being received
6 into the record?

7 MR. THOMPSON: None.

8 MR. OGATA: No objections.

9 HEARING OFFICER GEFTER: Okay. Hearing
10 no objection, Exhibit 69 and Exhibit 70 are
11 received into the record.

12 (Thereupon Exhibits 69 and 70
13 were received into evidence.)

14 HEARING OFFICER GEFTER: Are there any
15 other witnesses on Alternatives?

16 All right. Then we do have -- tomorrow
17 we have a portion of the issue on Alternatives
18 with respect to dual fuel options, and we're going
19 to hear that tomorrow.

20 And right now, we can go on to the
21 topics that are being submitted by declaration.
22 And we have several of those. And what we'll do
23 is ask the Applicant to indicate the topic and the
24 exhibits that you want to offer on those topics.

25 As I mentioned earlier, the parties had

1 waived cross examination on these particular
2 topics.

3 MR. THOMPSON: Yes. Do you want me to
4 go through each topic, or have me list the topic
5 and then have Staff list --

6 HEARING OFFICER GEFTER: I'll state the
7 topic, and you tell me the exhibit. How's that?

8 Are you ready to proceed?

9 MR. THOMPSON: Yes, I believe so.

10 HEARING OFFICER GEFTER: Okay. All
11 right. The first topic that is being submitted by
12 declaration, and that's Transmission Line Safety
13 and Nuisance.

14 MR. THOMPSON: That would be contained
15 in the prepared testimony by Gordon Ormsby, and a
16 declaration is attached thereto. The only
17 exhibits that he is sponsoring is a part of
18 Exhibit 1, the AFC.

19 HEARING OFFICER GEFTER: Okay. And
20 Geological and Paleontological Resources.

21 MR. THOMPSON: That would actually be
22 Mr. Al Williams in Geological Resources. I
23 resubmitted Mr. Williams' testimony with a
24 declaration in the second package, and had a
25 reference to Geology at the top of that

1 declaration.

2 And for Paleontological Resources, Mr.
3 Hatoff's testimony is contained in -- as part of
4 the prepared testimony.

5 Both of those have declarations now
6 attached. Both of those refer only to Exhibits --
7 Exhibit 1.

8 HEARING OFFICER GEFTER: And the -- the
9 other testimony is in your additional testimony,
10 or in your Prehearing Conference testimony?

11 MR. THOMPSON: In the Prehearing
12 Conference.

13 HEARING OFFICER GEFTER: All right.

14 And on Cultural Resources.

15 MR. THOMPSON: Our Cultural Resources,
16 we have the same witness, Mr. Hatoff, who's
17 prepared material that's contained also in the
18 same document that was submitted as part of our
19 Prehearing Conference. And, again, sponsors only
20 part of Exhibit 1.

21 HEARING OFFICER GEFTER: Hazardous
22 Materials.

23 MR. THOMPSON: Hazardous Materials, the
24 testimony of David Marx, and I -- and the actual
25 spelling is M-a-r-x, I think I gave that to you

1 wrong a while ago. His testimony was submitted as
2 part of the Prehearing Conference package, and the
3 only exhibit he references is part of Exhibit 1.

4 HEARING OFFICER GEFTER: Waste
5 Management.

6 MR. THOMPSON: The same, David Marx,
7 also is our witness for Waste Management. And,
8 again, there is no sponsorship of any exhibit
9 other than Exhibit -- part of Exhibit 1.

10 HEARING OFFICER GEFTER: Visual
11 Resources.

12 MR. THOMPSON: Visual Resources, the
13 prepared testimony of Mr. Larry Headley, with a
14 declaration attached, was submitted as part of the
15 Prehearing Conference statement, and, again, only
16 -- the only exhibit he is sponsoring is part of
17 Exhibit 1.

18 HEARING OFFICER GEFTER: Noise.

19 MR. THOMPSON: Noise, Mr. Al Williams is
20 the witness for -- for Noise. Somehow I notice
21 that Gil Magdych, our -- one of our biology team,
22 got his name mixed up in there. Mr. Williams'
23 testimony in the second package, the additional
24 prepared testimony --

25 HEARING OFFICER GEFTER: That's Exhibit

1 75.

2 MR. THOMPSON: -- 75, the Noise issue is
3 part of the declaration.

4 HEARING OFFICER GEFTER: Oh, I'm --
5 okay. Go ahead.

6 MR. THOMPSON: Attached to his testimony
7 in Exhibit 75.

8 HEARING OFFICER GEFTER: Okay. And
9 Worker Safety.

10 MR. THOMPSON: Worker Safety is Ms.
11 Denise Clendenning. Her prepared testimony with a
12 declaration attached is -- is part of Prehearing
13 Conference statement. I think that's 77. And
14 again, the only exhibit she references is part of
15 Exhibit 1.

16 HEARING OFFICER GEFTER: Socioeconomics.

17 MR. THOMPSON: Al Williams -- I'm sorry.
18 Al Williams is -- is Fire Protection, and his
19 prepared testimony was resubmitted as part of
20 Exhibit 75, and his declaration references Fire
21 Protection. No exhibits other than part of
22 Exhibit 1.

23 HEARING OFFICER GEFTER: And
24 Socioeconomics.

25 MR. THOMPSON: Yes. Finally,

1 Socioeconomics, our witness is Shabnam Barati, and
2 her prepared testimony was included as part of the
3 Prehearing Conference statement, with a
4 declaration attached, and the only exhibit is part
5 of Exhibit 1.

6 HEARING OFFICER GEFTER: All right.

7 These topics, Transmission Line Safety
8 and Nuisance, Geology and Paleo, Cultural
9 Resources, Hazardous Materials, Waste Management,
10 Visual Resources, Noise, Worker Safety and Fire
11 Protection, and Socioeconomics are being submitted
12 by declaration. The parties have stipulated they
13 have no cross examination, and they are now part
14 of the record.

15 MR. THOMPSON: Thank you.

16 HEARING OFFICER GEFTER: We have a few
17 housekeeping matters, and then we can wind up.

18 First matter was a request by Cabrillo
19 Power to brief the issue of need with respect to
20 override and -- and other issues. And we
21 anticipate that the parties are going to be filing
22 briefs on the topics tomorrow on the gas
23 reliability issues. And if Mr. Varanini wants to
24 include a section on the issue of need with
25 respect to reliability and override, you're

1 welcome to include your argument in that -- in
2 that particular brief.

3 We -- at the end of tomorrow, we will
4 talk about what issues we want to see briefed, and
5 the schedule for the briefing on that topic.

6 Tomorrow we begin at 9:00 o'clock. The
7 hearing will actually be in this room. It will be
8 -- the first topic will be Facility Design. We
9 will meet the famous Al Williams, who happens to
10 be Applicant's witness on everything.

11 (Laughter.)

12 HEARING OFFICER GEFTER: Mr. Baker will
13 also be here for Staff. We'll also take testimony
14 on Transmission System Engineering. We expect
15 that Mr. Tobias from Cal-ISO will be here. Is
16 that correct?

17 MR. OGATA: That's correct.

18 HEARING OFFICER GEFTER: Okay. You're
19 also here now.

20 MR. BAKER: Yes.

21 HEARING OFFICER GEFTER: Okay. Well, we
22 hope to see you tomorrow morning.

23 And we also will hear testimony on Power
24 Plant Efficiency and Reliability, with -- in
25 particular with respect to the gas supply issues.

1 And then we also have set aside time to
2 listen to testimony on Alternatives with respect
3 to dual fuel options, which was a topic raised by
4 Cabrillo Power. Mr. Varanini had not indicated
5 any witnesses, but intended to cross examine. Are
6 you planning to bring a witness on that topic?

7 MR. VARANINI: I think that Mr.
8 Weatherwax's testimony includes a recommendation
9 on dual fuel.

10 HEARING OFFICER GEFTER: All right.
11 What I want to do is keep each of these topics
12 separate for the record, so we will have separate
13 sections. I know a lot of the topics tend to
14 overlap, but for the record I want to have each
15 topic complete before we go on to the next one.

16 Anything else? Is there any other
17 housekeeping matter, Mr. Ogata?

18 MR. OGATA: Thank you, Ms. Gefter.

19 Just for the record, I also want to
20 ensure that Staff's testimony on all those areas
21 is also admitted into the record. Those areas
22 being the list that you read off previously for
23 the Applicant.

24 HEARING OFFICER GEFTER: That's a very
25 good point. And I -- Staff's testimony is

1 included in the FSA, and also in your additional
2 testimony. Is that correct?

3 MR. OGATA: I believe all of these areas
4 today are only in the FSA.

5 HEARING OFFICER GEFTER: In the FSA.
6 And we have that as Exhibit -- Exhibit 65 -- 64,
7 I'm sorry.

8 MR. OGATA: And --

9 HEARING OFFICER GEFTER: Okay, Exhibit
10 64, Staff's testimony on the topics that are
11 admitted by declaration. And we'll ask you to
12 move Exhibit 64 in its entirety at the end of the
13 Evidentiary Hearing.

14 MR. OGATA: And also, Worker Safety and
15 Visual Resources had errata that we filed as
16 Exhibit 74.

17 HEARING OFFICER GEFTER: Okay.

18 And just as Staff is going to move their
19 FSA into the record at the end of all Evidentiary
20 Hearings, Applicant will also move Exhibit 1 into
21 the record at that point.

22 MR. THOMPSON: Yes.

23 HEARING OFFICER GEFTER: All right.

24 MR. OGATA: And I also have just one
25 more housekeeping, Ms. Gefter.

1 On the exhibit list, when you went
2 through the end exhibits, you stated that you had
3 added an Exhibit 76, which was prepared testimony
4 of Robin Tenoso and Benjamin Montoya, I believe.
5 Is that different than the testimony that's listed
6 as Exhibit 73?

7 HEARING OFFICER GEFTER: Good point. I
8 believe it's the same exhibit, so what we can do
9 is take one of them out. Which one do you want
10 out, Number 76 I believe we'll take out.

11 All right, you're right. It's a repeat.
12 They had sent it in twice, and I think we counted
13 it twice. All right. So references to Exhibit 76
14 are now referred to Exhibit 73. We'll straighten
15 it out. I'll get you a new list the next time we
16 meet, next week. But we're stuck with this list
17 for tomorrow.

18 MR. OGATA: That's fine. Thank you.

19 HEARING OFFICER GEFTER: Okay. Anything
20 else? Does any member of the public wish to
21 address us at this time?

22 Okay. Hearing no further comment, this
23 hearing is adjourned.

24 (Thereupon the Evidentiary Hearing
25 was adjourned at 4:40 p.m.)

CERTIFICATE OF REPORTER

I, DEBI BAKER, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Evidentiary Hearing; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said Hearing, nor in any way interested in the outcome of said Hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of November, 2000.

DEBI BAKER

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